LAWS, RESOLUTIONS AND MEMORIALS

OF THE

Territory of Montana,

PASSED AT THE

EXTRAORDINARY SESSION

OF THE

FIFTEENTH LEGISLATIVE ASSEMBLY

Held at Helena, the seat of government of said Territory, commencing August 29, A. D. 1887, and ending September 14, A. D. 1887.

TO WHICH ARE PREFIXED

THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES CONTAINING PROVISIONS COMMON TO ALL TERRITORIES, SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES RELATING TO THE TERRITORY OF MONTANA.

PUBLISHED BY AUTHORITY OF THE UNITED STATES.

JOURNAL PUBLISHING CO.,
PUBLIC PRINTERS AND BINDERS, HELENA, MONTANA.
1887.

HeinOnline -- 1887 [i] 1887

CERTIFICATE OF AUTHENTICATION.

TERRITORY OF MONTANA, }
SECRETARY'S OFFICE. } ss.

I, WM. B. WEBB, Secretary of the Territory of Montana, do hereby certify that the printed Laws, Resolutions and Memorials contained herein, are true and correct copies of all the enrolled Laws, Resolutions and Memorials that were passed at the Extraordinary Session of the Fifteenth Legislative Assembly of said Territory, begun August 29th, A. D. 1887, and ending September 14th, A. D. 1887, and held at Helena, the seat of government of said Territory, with the exception of corrections in orthography and punctuation, and omissions or substitute words inserted in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of said Territory. Done at Helena, the seat of government of the Territory of Montana, this 14th day of January, A. D. 1888.

[SEAL.]

WM. B. WEBB,
Secretary of Montana Territory.

HeinOnline -- 1887 i 1887

GOVERNOR, - - - - - - - PRESTON H. LESLIE.

Members of the Fifteenth Legislative Assembly.

COUNCIL.

NAMES OF MEMBERS.	COUNTIES REPRESENTED.	POST OFFICES.
Hickman, R. O., President	Madison	Virginia City.
Batchelder, G. L.	Beaverhead	Bannack.
Cardwell, E.	Jefferson	Cold Spring.
Collins, T. E.	Choteau	Fort Benton.
Holliday, S. L.	Gallatin	Livingston.
Hundley, W. B.	Lewis and Clarke	Helena.
Kennedy, Will	Missoula	Missoula.
Pardee, J. K.	Deer Lodge	Philipsburgh.
Rickards, J. E.	Silver Bow	Butte City.
Sutherlin, W. H.	Fergus and Meagher	WhiteSulphurSprings
*Thompson, J. J.	Custer	Miles City.
Waters, E. C.	Dawson and Yellowstone	Billings.

*Resigned, and Walter A. Burleigh elected for Custer County.

SUBORDINATE OFFICERS.

Reuben L. Davis	Chief Clerk.
H. D. Arkwright	Enr. and Eng. Clerk.
Matthew McGuirk	Sergt. at Arms.
R. E. Smith	Chaplain.
B. F. Hooper	Watchman.
Geo. W. Faust	Messenger.

HOUSE OF REPRESENTATIVES.

NAMES OF MEMBERS.	COUNTIES REPRESENTED.	POST OFFICES.
Armstrong, F. K., Speaker	Gallatin	Bozeman.
Alderson, W. W.	Gallatin	Bozeman.
Blake, H. N.	Madison	Virginia City.
Brown, L. A.	Beaverhead	Dillon.
Buskett, J. W.	Jefferson, and Lewis and Clarke	Boulder Valley.
Gorham, T. L.	Lewis and Clarke	Dodge.
Hanscomb, C. W.	Silver Bow	Butte City.
Harwood, E. N.	Yellowstone	Billings.
Hoffman, C. W.	Gallatin	Bozeman.
Holt, J. M.	Custer	Miles City.
Johnson, E. H.	Custer	Miles City.
Kanouse, J. E.	Fergus, and Meagher	Townsend.
Mantle, Lee	Silver Bow	Butte City.
Marshall, T. C.	Missoula	Missoula.
Muth, William	Lewis and Clarke	Helena.
Page, J. M.	Beaverhead, and Madison	Twin Bridges.
Scobey, C. R. A.	Dawson	Ridgelawn.
Spaulding, Harrison	Missoula	Missoula.
Taylor, J. F.	Choteau	Choteau.
Thompson, William	Silver Bow	Butte City.
Titman, Jacob	Fergus, and Meagher	Toston.
Toole, J. R.	Deer Lodge	Anaconda.
White, M. W.	Deer Lodge	Helmville.
Wilson, Enoch	Jefferson	Radersburg.

SUBORDINATE OFFICERS.

David Marks	Chief Clerk.
Harry L. Rogers	Enr. and Eng. Clerk.
Sam'l Alexander	Sergt. at Arms.
T. V. Moore	Chaplain.
James Crump	Watchman.
Arthur Pelletier	Messenger.

HeinOnline -- 1887 iii 1887

TABLE OF CONTENTS.

	PAGE.
Declaration of Independence	1-5
Constitution of the United States of America	6-15
Amendments to the Constitution	16-19
Revised Statutes of the United States of America (Provisions Common to all the Territories.)	20-39
Revised Statutes of the United States of America. (Sections relating to the Territory of Montana.)	40-43
Session Laws of Congress (Relating to Government in Montana.)	44-55

GENERAL LAWS.

COUNTY ATTORNEYS—SUPREME COURT.

AN ACT relative to County Attorneys 57

COUNTY ASSESSORS—TERM OF OFFICE.

AN ACT concerning the terms of office of county assessor 57

BOUNTY—WILD ANIMALS.

AN ACT to provide a bounty for killing certain wild animals 58

BOUNTY—WILD ANIMALS.

AN ACT to repeal all laws relative to the payment of bounties for killing wild animals 58

MARKS AND BRANDS.

AN ACT to amend Section 172 of the Fifth Division of the Compiled Statutes of Montana 58

ADMINISTRATOR—COMPENSATION.

AN ACT to amend Section 253, Second Division Compiled Statutes of Montana 59

MARRIAGE LICENSES.

AN ACT concerning marriages 60

ATTORNEY GENERAL.

AN ACT to create the office of attorney-general of the Territory of Montana 60

MUNICIPAL CORPORATIONS.

AN ACT to amend an act relating to the formation of municipal corporations, approved March 10, 1887 62-66

DISTRICT COURTS—TRIAL PRACTICE.

AN ACT to regulate trial practice in district courts in relation to exceptions and instructions 67

COUNTY CLERKS—FEES.

AN ACT to amend an act entitled an act to amend Sections 535 and 594, of Chapter 22 of the Fifth Division of Revised Statutes, approved March 10, 1887 67

GUNPOWDER—STORAGE.

AN ACT to amend an act entitled an act concerning the storage of gunpowder, approved March 1, 1883 68

CITIES AND TOWNS—INDEBTEDNESS.

AN ACT to enable certain cities and towns to incur indebtedness 69-70

MECHANICS' LIENS.

AN ACT to amend an act entitled an act to amend an act relating to liens of mechanics and others, approved March 9, 1887 71

HeinOnline -- 1887 v 1887

LICENSES.

AN ACT to amend an act entitled an act concerning licenses, approved March 10, 1887 72-77

NEW TRIALS—MOTIONS.

AN ACT relating to motions for new trial 77

DISTURBANCE OF THE PEACE.

AN ACT to define disturbance of the peace 77

RAILROAD TRACKS—INTERFERENCE.

AN ACT to punish interference with railroad tracks 78

SCHOOL TEXT BOOK COMMISSION.

AN ACT to create a school text book commission 79

SHEEP DISEASES.

AN ACT to amend an act entitled "An act to suppress and prevent dissemination of scab and infectious diseases among sheep," approved March 10, 1887 79-81

STENOGRAPHERS—DISTRICT COURTS.

AN ACT to amend an act authorizing the appointment of stenographers by the district courts, approved March 10, 1887 82

TAXES—ASSESSMENT.

AN ACT to provide for the levy of taxes and assessment of property 82-103

ARBORICULTURE.

AN ACT to amend an act entitled "An act to encourage tree-planting and arboriculture in Montana," approved February 28, 1887 103

VOTERS—QUALIFICATIONS.

AN ACT defining the qualifications of voters in incorporated cities and towns 104

LEGISLATIVE COUNCIL—MEMBERS.

AN ACT to apportion members of the legislative council to the counties of Meagher, Fergus, Gallatin and Park 104

SPECIAL LAWS.

CASCADE COUNTY.

AN ACT to create the county of Cascade, to define its boundaries, and provide for its organization 105-109

PARK COUNTY—RECORDS.

AN ACT to provide for transferring certain records from Gallatin county to Park county 109

RESOLUTIONS.

Council joint resolution providing extra clerks for Council and House and compensation therefor 110

MEMORIALS.

Council joint memorial praying for an amendment of the Alien land laws 111
House joint memorial asking for a brick wall around the penitentiary 112
Council joint memorial praying for the passage of an act of congress increasing the number of the legislative assembly of Montana 112

HeinOnline -- 1887 vi 1887

DECLARATION OF INDEPENDENCE.

IN CONGRESS, JULY 4TH, 1776.

The Unanimous Declaration of the Thirteen United States of America.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that when any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will indicate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw of such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies: and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

HeinOnline -- 1887 1 1887

He has refused to assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accomodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise, the state remaining in the meantime, exposed to all the dangers of invasion from without and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation.—

For quartering large bodies of armed troops among us;

For protecting them by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states;

For cutting off our trade with all parts of the world;

For imposing taxes on us, without our consent;

HeinOnline -- 1887 2 1887

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas, to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislature, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the work of death, desolation and tyrranny, already begun, with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts by their legislature, to extend an uuwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They, too have been deaf to the voice of justice, and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

HeinOnline -- 1887 3 1887

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as free and independent states they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honors.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:—

JOHN HANCOCK.

New Hampshire.

JOSIAH BARTLETT,
WILLIAM WHIPPLE.
MATTHEW THORNTON.

Massachusetts Bay.

SAMUEL ADAMS,
JOHN ADAMS,
ROBERT TREAT PAYNE,
ELBRIDGE GERRY.

Rhode Island, etc.

STEPHEN HOPKINS.
WILLIAM ELLERY.

Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
OLIVER WOLCOTT.

New York.

WILLIAM FLOYD,
PHILIP LIVINGSTON.
FRANCIS LEWIS,
LEWIS MORRIS.

Pennsylvania.

ROBERT MORRIS.
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

Delaware.

CÆSAR RODNEY,
GEORGE READ,
THOMAS M'KEAN.

Virginia.

GEORGE WYTHE,
RICHARD HENRY LEE.
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, JR.,
FR. LIGHTFOOT LEE,
CARTER BRAXTON.

HeinOnline -- 1887 4 1887

New Jersey.

RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HEART,
ABRAHAM CLARK.

Maryland.

SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHAS. CARROL, of Carrollton.

North Carolina.

WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

South Carolina.

EDWARD RUTLEDGE,
THOMAS HAYWARD, JR.,
THOMAS LYNCH, JR.,
ARTHUR MIDDLETON.

Georgia.

BUTTON GUINETT,
LYMAN HALL,
GEORGE WALTON.

HeinOnline -- 1887 5 1887

CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and a house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled

HeinOnline -- 1887 6 1887

to choose three, *Massachusetts* eight, *Rhode Island* and *Providence plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

HeinOnline -- 1887 7 1887

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same. excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning trom the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by

HeinOnline -- 1887 8 1887

two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of reprentatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8 The congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

HeinOnline -- 1887 9 1887

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, aad other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government ot the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars foreach person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money, emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligations of contracts, or grant any title of nobility.

HeinOnline -- 1887 10 1887

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[*The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

*Annulled. See 12th Amendment.

HeinOnline -- 1887 11 1887

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability both of the president and vice president, declaring what officer shall then act as president and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath of affirmation:—

"I do solemnly swear (*or affirm*), that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States; he may acquire the opinion in writing of the principal officer in in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may by law vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

HeinOnline. -- 1887 12 1887

The president shall have the power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; [*between a state and citizens of another state;] between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, excpt in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within

*Annulled. See 11th Amendment.

HeinOnline -- 1887 13 1887

any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceeeings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any other state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

HeinOnline -- 1887 14 1887

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as a part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may he proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as vaid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made. under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states to ratify the same.

HeinOnline -- 1887 15 1887

AMENDMENTS

TO THE

Constitution of the United States.

ARTICLE I.

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

HeinOnline -- 1887 16 1887

ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be

HeinOnline -- 1887 17 1887

counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice president of the United States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be appointed among the several states according to their respective numbers, counting the whole number of persons in each state, including Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States,

HeinOnline -- 1887 18 1887

represetatives in congress the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

SEC. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

HeinOnline -- 1887 19 1887

THE TERRITORIES.

Revised Statutes of the United States.

TITLE XXIII. CHAPTER ONE.

PROVISIONS COMMON TO ALL THE TERRITORIES.

Right of Indians in person and property not impaired by this title, etc., boundaries, etc.
Mont. 26 May, 1864.

SECTION 1839. Nothing in this title shall be construed to impair the rights of person or property pertaining to the Indians in any territory so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of any territory now or hereafter organized until such tribe signifies its assent to the president to be embraced within a particular territory.

Authority to regulate Indians.
Ibid

SEC. 1840. Nor shall anything in this title be construed to affect the authority of the United States to make any regulations respecting the Indians of any territory, their lands, property, or rights, by treaty, law, or otherwise, in the same manner as might be made if no temporary government existed, or is hereafter established, in any such territory.

Executive power.
Ibid.

SEC. 1841. The executive power of each territory shall be vested in a governor, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. He shall reside in the territory for which he is appointed, and shall be commander-in-chief of the militia thereof.

HeinOnline -- 1887 20 1887

He may grant pardons and reprieves, and remit fines and forfeitures for offenses against the laws of the territory for which he is appointed, and respites for offenses against the laws of the United States, till the decision of the president can be made known thereon. He shall commission all officers who are appointed under the laws of such territory, and shall take care that the laws thereof be faithfully executed.

SEC. 1842. Every bill which has passed the legislative assembly of any territory shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but, if not, he shall return it, with his objections, to that house in which it originated, and that house shall enter the objections at large on its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house agree to pass the bill it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house. If any bill is not returned by the governor within three days, Sundays excluded, except in Washington and Wyoming, where the term is five days, Sundays excluded, after it has been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment *sine die*, prevent its return, in which case it shall not be a law: *Provided*, that so much of this section as provides for making any bill passed by the legislative assembly of a territory a law without the approval of the governor, shall not apply to the territories of Utah and Arizona.

Veto power.
Ibid.

SEC. 1843. There shall be appointed a secretary for each territory, who shall reside within the territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. In case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall execute all the powers and perform all the duties of governor, during such vacancy or absence, or until aother governor is appointed and qualified.

Secretary.
Ibid.

SEC. 1844. The secretary shall record and preserve all the laws and proceedings of the legislative assembly, and all the acts and proceedings of the

Secretary's duties.
Ibid.

HeinOnline -- 1887 21 1887

governor in the executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the president, and two copies of the laws, within like time, to the president of the senate, and to the speaker of the house of representatives, for the use of congress; he shall transmit one copy of the executive proceedings and official correspondence semi-annually, on the first day of January and July of each year, to the president; he shall prepare the acts passed by the legislative assembly for publication, and furnish a copy thereof to the public printer of the territory, within ten days after the passage of each act.

SEC. 1846. The legislative power in each territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The members of both branches of the legislative assembly shall have the qualification of voters as herein prescribed. They shall be chosen for the term of two years, and the sessions of the respective legislative assemblies shall be biennial. Each legislative assembly shall fix by law the day of the commencement of its regular sessions. The members of the council and of the house of representatives shall reside in the district or county for which they are respectively elected.

Legislative powers.
Mont. 26 May, 1864; 3 March, 1869; 20 June, 1874.

SEC. 1847. Previous to the first election for members of the legislative assembly of a territory in which congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as he may designate and appoint, and the persons so appointed shall receive a reasonable compensation for their services. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such elections and the returns thereof, as the governor may direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts is entitled under the act providing such temporary government for the particular territory. The persons having the highest number of legal votes in each of the districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of repre-

Census and elections.
Mont., 26 May, 1864.

HeinOnline -- 1887 22 1887

sentatives shall be declared by the governor to be duly elected members of that house; but in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor appoints.

Time and place of holding elections. Ibid.

SEC. 1848. After such first election, however, the time, place and manner of holding elections by the people in any newly-created territory, as well as of holding all such elections in territories now organized, shall be prescribed by the laws of each territory.

Apportionment. Ibid.

SEC. 1849. The apportionment of representation, which the governor is authorized to make by section eighteen hundred and forty-seven, in the case of a territory hereafter erected by congress, shall be as nearly equal as practicable among the several districts and counties for such first election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population, except Indians not taxed; and thereafter in such new territory, as well as in all territories now organized, the legislative assemblies, respectively, may re-adjust and apportion the representation to the two houses thereof, among the several counties and districts, in such manner from time to time, as they deem just and proper; but the number of either house, as authorized by law, shall not be increased.

Laws to be submitted to congress. Ibid.

SEC. 1850. All laws passed by the legislative assembly and governor of any territory except in the territories of Colorado, Dakota, Idaho, Montana and Wyoming, shall be submitted to congress, and, if disapproved, shall be null, and of no effect.

Extent of legislative power. Ibid.

SEC. 1851. The legislative power of every territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.

SEC. 1854. No member of the legislative assembly of any territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which

HeinOnline -- 1887 23 1887

Members of legislature prohibited from holding certain offices. Mont., 26 May, 1864.

he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to the members of the first legislative assembly in any territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of any territory. The exception of postmasters shall not apply in the territory of Washington.

Prohibition of extra compensation to certain officers. 23 Jan. 1873.

SEC. 1855. No law of any territorial legislature shall be made or enforced by which the governor or secretary of a territory, or the members or officers of any territorial legislature are paid any compensation other than that provided by the laws of the United States.

Election of justices of the peace and militia officers. Mont., 26 May, 1864.

SEC. 1856. Justices of the peace and all general officers of the militia in the several territories shall be elected by the people in such manner as the respective legislatures may provide by law.

SEC. 1857. All township, district, and county officers, except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each territory, shall appoint; but, in the first instance, where a new territory is hereafter created by congress, the governor alone may appoint all the officers referred to in this and the preceding section, and assign them to their respective townships, districts and counties; and the officers so appointed shall hold their offices until the end of the first session of the legislative assembly.

Other officers. Ibid.

Vacancies, how filled. 8 June, 1872.

SEC. 1858. In any of the territories, whenever a vacancy happens from resignation or death, during the recess of the legislative council, in any office which, under the organic act of any territory, is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council.

Qualifications of voting and holding office at first election. Mont., 26 May, 1864.

SEC. 1859. Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens in any territory hereafter organized, and who are actual residents of such territory at the time of the organization

HeinOnline -- 1887 24 1887

thereof, shall be entitled to vote at the first election in such territory, and to hold any office therein; subject, nevertheless, to the limitations specified in the next section.

SEC. 1860. At all subsequent elections, however in any territory hereafter organized by congress, as well as at all elections in territories all ready organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly of each territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

At future elections. Ibid.

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such, and have taken an oath to support the constitution and government of the United States.

Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude.

25 Jan., 1867.

Third. No officer, soldier, seaman, mariner or other person in the army or navy, or attached to troops in the service of the United States, shall be allowed to vote in any territory, by reason of being on service therein, unless such territory is, and has been for the period of six months his permanent domicile.

Fourth. No person belonging to the army or navy shall be elected to or hold any civil office or appointment in any territory.

SEC. 1862. Every territory shall have the right to send a delegate to the house of representatives of the United States, to serve during each congress, who shall be elected by the voters in the territory qualified to elect members of the legislative assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such delegate shall have a seat in the house of representatives, with the right of debating, but not of voting.

Delegate to congress. Mont., 26 May, 1864.

SEC. 1863. The first election of a delegate in any territory for which a temporary government is hereafter provided by congress shall be held at the time and places and in the manner the governor of such territory may direct, after at least sixty days' notice, to be given by proclamation; but at all subsequent elections

Time, places and manner of electing delegate. Ibid.

HeinOnline -- 1887 25 1887

therein, as well as at all elections for a delegate in organized territories, such time, places, and manner of holding the elections shall be prescribed by the law of each territory. [See § 25.]

Supreme courts of territories. Ibid.

SEC. 1864. The supreme court of every territory shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and they shall hold their offices for four years, and until their successors are appointed and qualified. They shall hold a term annually at the seat of government of the territory for which they are respectively appointed.

Judicial districts and courts.

SEC. 1865. Every territory shall be divided into three judicial districts; and a district court shall be held in each district of the territory by one of the justices of the supreme court, at such time and place as may be prescribed by law; and each judge, after assignment shall reside in the district to which he is assigned.

Jurisdiction of courts. Ibid, 7 Apr. 1874.

SEC. 1866. The jurisdiction, both appellate and original, of the courts provided for in sections nineteen hundred and seven and nineteen hundred and eight, shall be limited by law.

Jurisdiction of justices of the peace. Ibid.

SEC. 1867. No justices of the peace in any territory shall have jurisdiction of any case, in which the title to land, or the boundary thereof, in any wise comes in question.

Chancery and common law jurisdiction. Ibid.

SEC. 1868. The supreme court and the district courts respectively, of every territory, shall possess chancery as well as common law jurisdiction.

Appellate jurisdiction of supreme court. Ibid.

SEC. 1869. Writs of error, bills of exception and appeals shall be allowed, in all cases, from the final decisions of the district courts to the supreme court of all the territories, respectively, under such regulation as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in that court.

Clerk of supreme court. Mont., 26 May, 1864.

SEC. 1870. The supreme court of each territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed.

Clerk of district court. Ibid.

SEC. 1871. Each judge of the supreme court of the respective territories shall designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and shall designate and retain but one such clerk where more than one is already appointed, and only such district

HeinOnline -- 1887 26 1887

clerk shall be entitled to a compensation from the United States.

Register in chancery; residence and office.
Ibid.

SEC. 1872. Every district clerk shall be also the register in chancery, and shall reside and keep his office at the place where the court is held.

Judicial districts; how defined.
Ibid.

SEC. 1873. Temporarily, and until otherwise provided by law, the governor of every territory which may be hereafter established, shall define, by proclamation, the judicial districts of such territory, and assign the judges appointed for such territory to the several districts, as well as fix the times and places for holding courts in the respective counties or subdivisions of each judicial district.

Judges of supreme court to hear certain causes.
Ibid.

SEC. 1874. The judges of the supreme court of each territory are authorized to hold court within their respective districts, in the counties wherein, by the laws of the territory, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expense of holding such courts shall be paid by the territory, or by the counties in which the courts are held, and the United States shall in no case be chargeable therewith.

District attorneys.
Ibid.

SEC. 1875. There shall be appointed in each territory a person learned in the law to act as attorney for the United States. He shall continue in office for four years, and until his successor is appointed and qualified, unless sooner removed by the president.

Marshals.
Ibid.

SEC. 1876. There shall be appointed a marshal for each territory. He shall execute all process issuing from the territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties, and be subject to the regulations and penalties imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president.

Appointment of governor, etc.
Ibid.

SEC. 1877. The governor, secretary, chief justice, and associate justices, attorney, and marshal of every territory shall be nominated and, by and with the advice and consent of the senate, appointed by the president.

SEC. 1878. The governor and secretary for each territory shall, before they act as such, respectively take an oath before the district judge, or some justice of the peace in the limits of the territory for which

HeinOnline -- 1887 27 1887

they are appointed, duly authorized to administer oaths by the laws in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States and faithfully to discharge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers appointed for any territory, before they act as such, shall take a like oath before the governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualtfied, and such oath shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new territory, as well as in all organized territories, the like oath shall be taken, certified, and recorded in such manner and form as may be prescribed by the law of each territory.

Oath of office; how qualified. Ibid. 1 May, 1876.

Salaries of justices. 17 June 1870.

SEC. 1879. The annual salary of the chief justice and associate justices of all the territories now organized shall be three thousand dollars each.

Salary of attorney. Mont., 26 May, 1864.

SEC. 1880. The salary of the attorney of the United States for each territory shall be at the rate of two hundred and fifty dollars annually.

Salary of marshal. Ibid.

SEC. 1881. The salary of the marshal of the United States for each territory shall be at the rate of two hundred dollars a year.

When salaries to be paid, etc. Ibid.

SEC. 1882. The salaries provided for in this title, to be paid to the governor, secretary, chief justices, and associate justices, district attorney, and marshal of the several territories, shall be paid quarter-yearly at the treasury of the United States.

Fees of clerks, etc. 23 June, 1874.

SEC. 1883. The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses, commissioners, and printers in the territories of the United States shall be the same for similar services by such persons as prescribed in chapter 16, title "THE JUDICIARY," and no other compensation shall be taxed or allowed.

Salary not to be paid when officer is absent. Mont., 26 May, 1864.

SEC. 1884. When any officer of a territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown

HeinOnline -- 1887 28 1887

to the president, who shall officially certify his opinion of such cause to the proper accounting officer of the treasury, to be filed in his office.

SEC. 1885. The legislative assembly of every territory hereafter organized shall hold its first session at such time and place in the territory as the governor thereof shall appoint and direct; and at the first session of the legislative assembly, or as soon thereafter as it may be deemed expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for the territory at such place as they may think proper; but such place shall thereafter be subject to be changed by the governor and legislative assembly.

Seat of government in a new territory. Ibid.

SEC 1886. All accounts for disbursements in the territories of the United States, of money, appropriated by congress for the support of government, therein shall be settled and adjusted at the treasury department; and no act, resolution, or order of the legislature of any territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the accounting officers of the treasury. No payment shall be made or allowed, unless the secretary of the treasury has estimated therefor and the object been approved by congress. No session of the legislature of a territory shall be held until the appropriation for its expenses has been made.

Accounts of the territories; no payments unless approved by congress. Mont. 26 May, 1864.

SEC. 1888. No legislative assembly of a territory shall, in any instance or under any pretext, exceed the amount appropriated by congress for its annual expenses.

Limitation on expenses of legislature. Mont., 26 May, 1864.

SEC. 1889. The legislative assemblies of the several territories shall not grant private charters or especial privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therwith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable, or scientific association.

Legislatures not to grant special charters. 2 March 1867 10 June 1872

SEC. 1890. No corporation or association for religious or charitable purposes shall acquire or hold real estate in any territory, during the existence of the territorial government, of a greater value than fifty thousand dollars; and all real estate acquired or held by

Limitation on right of religious corporations to hold real estate. Mont., 26 May, 1864.

HeinOnline -- 1887 29 1887

such corporation or association contrary hereto shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section.

Constitution and laws of the United States made applicable to all the territories.
Mont., 26 May 1864.

SEC. 1891. The constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect in all the organized territories, and in every territory hereafter organized, as elsewhere within the United States.

Penitentiaries.
10 Jan., 1871

SEC. 1892. Any penitentiary which has been, or may hereafter be, erected by the United States in an organized territory shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States for the territory or district in which said penitentiary is situated, except as otherwise provided in the case of the penitentiaries in Montana, Idaho, Wyoming and Colorado.

Rules for their government.
10 Jan., 1871

SEC. 1893. The attorney general of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and of his deputies for their services under such regulations shall be fixed by the attorney general.

Payment of marshal, &c., and of expenses of subsistence, &c., of offenders.
Ibid.

SEC. 1894. The compensation, as well as the expense incident to the subsistence and employment of offenders against the laws of the United States, who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable on, and payable out of, the fund for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offences committed against the United States; but nothing herein shall be construed to increase the maximum compensation now allowed by law to those officers.

Imprisonment in penitentiaries.
Ibid.

SEC. 1895. Any person convicted by a court of competent jurisdiction in a territory, for a violation of the laws thereof, and sentenced to imprisonment, may, at the cost of such territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted, and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offence against the laws of the Unided States.

HeinOnline -- 1887 30 1887

CHAP. 818.—An act to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes. July 30, 1886.

Territorial legislatures. Forbidden to pass certain local or special laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legislatures of the Territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say,

Granting divorces.

Changing the names of persons or places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, town-plats, streets, alleys and public grounds.

Locating or changing county seats.

Regulating county and township affairs.

Regulating the practice in courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns, or villages, or changing or amending the charter of any town, city or village.

For the punishment of crimes or misdemeanors.

For the assessment and collection of taxes for territorial, county, township or road purposes.

Summoning and impaneling grand or pettit jurors.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening and conducting of any election or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game or fish.

Chartering or licensing ferries or toll bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, or decreasing fees, percentage or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose.

HeinOnline -- 1887 31 1887

Granting to any corporation, association or individual any special or exclusive privilege, immunity, or franchise whatever.

No special law to be enacted where general law can apply.

In all other cases where a general law can be made applicable, no special law shall be enacted in any of the territories of the United States by the territorial legislatures thereof.

Not to subscribe, etc., to any corporation.

SEC. 2. That no territory of the United States now or hereafter to be organized, or any political or municipal corporation or sub-division of any such territory, shall hereafter make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of any such company or association, or borrow any money for the use of any such company or association.

In what cases debts may be incurred by Territories.

SEC. 3. That no law of any territorial legislature shall authorize any debt to be contracted by or on behalf of such territory except in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable or educational institutions for such territory, if the total indebtedness of the territory is not thereby made to exceed one per centum upon the assessed value of the taxable property in such territory as shown by the last general assessment for taxation. And nothing in this act shall be construed to prohibit the refunding of any existing indebtedness of such territory or of any political or municipal corporation, county, or other sub-division therein.

Limit.

Not to prohibit refunding.

Limit of indebtedness which may be incurred by counties, etc.

SEC. 4. That no political or municipal corporation, county, or other sub-division in any of the territories of the United States, shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding four per centum on the value of the taxable property within such corporation, county or subdivision, to be ascertained by the last assessment for territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void: That nothing in this act contained shall be so construed as to affect the validity of any act of any territorial legislature heretofore enacted, or of any obligations ex-

Not to be retroactive.

HeinOnline -- 1887 32 1887

isting or contracted thereunder, nor to preclude the issuing of bonds already contracted for in pursuance of express provisions of law; nor to prevent any territorial legislature from legalizing the acts of any county, municipal corporation, or sub-division of any territory as to any bonds heretofore issued or contracted to be issued.

R. S., sec. 1889, p. 333, amended.

SEC. 5. That section eighteen hundred and eighty-nine, title twenty-one, of the revised statutes of the United States be amended to read as follows:

General incorporation acts.

"The legislative assemblies of the several territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposit (but not of issue) loan, trust, and guarantee associations, and for the construction or operation of railroads, wagon-roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable or scientific association."

Insurance, banking, etc., association included.

Power of congress to annul, etc., laws not abridged.

SEC. 6. That nothing in this act contained shall be construed to abridge the power of congress to annul any law passed by a territorial legislature, or to modify any existing law of congress requiring in any case that the laws of any territory shall be submitted to congress.

Acts in conflict to be null and void.

SEC. 7. That all acts and parts of acts hereafter passed by any territorial legislature in conflict with the provisions of this act shall be null and void.

Approved July 30, 1886.

Mar. 3, 1887.

CHAP. 340.—An act to restrict the ownership of real estate in the territories to American citizens, and so forth.

Territories.

Alien persons or corporations prohibited from acquiring real estate in.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person or persons not citizens of the United States or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some state or territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the territories of the United States or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the

Exception.

HeinOnline -- 1887 33 1887

ordinary course of justice in the collection of debts heretofore created: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty shall continue to exist so long as such treaties are in force, and no longer.

Proviso.

Treaty rights not impaired.

Corporation having more than 20 pr. ct. of stock held by aliens prohibited from holding real estate.

SEC. 2. That no corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in any of the territories of the United States or of the District of Columbia.

Maximum of land which may be held by corporations.

SEC. 3. That no corporation other than those organized for the construction or operation of railways, canals, or turnpikes shall acquire, hold, or own more than five thousand acres of land in any of the territories of the United States; and no railroad, canal, or turnpike corporation shall hereafter acquire, hold, or own lands in any territory, other than as may be necessary for the proper operation of its railroad, canal, or turnpike, except such lands as may have been granted to it by act of congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

Congressional grants.

Present titles not affected.

Property unlawfully held to be forfeited.

SEC. 4. That all property acquired, held, or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the attorney general to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned.

Suits.

Approved March 3, 1887.

HeinOnline -- 1887 34 1887

CHAP. 397.—An act to amend an act entitled "An act to amend section fifty-three hundred and fifty-two of the revised statutes of the United States, in reference to bigamy, and for other purposes," approved March twenty-second, eighteen hundred and eighty-two. Mar. 3, 1887.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. That in any proceeding or examination before a grand jury, a judge, justice, or a United States commissioner, or a court, in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, the lawful husband or wife of the person accused shall be a competent witness, and may be called, but shall not be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be; and such witness shall not be permitted to testify as to any statement or communication made by either husband or wife to each other, during the existence of the marriage relation, deemed confidential at common law.

Anti-polygamy act. Vol. 22, p. 30.

Husband or wife may testify in prosecutions for polygamy.

SEC. 2. That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, whether before a United States commissioner, justice, judge, a grand jury, or any court, an attachment for any witness may be issued by the court, judge, or commissioner, without a previous subpœna, compelling the immediate attendance of such witness, when it shall appear, by oath or affirmation, to the commissioner, justice, judge, or court, as the case may be, that there is reasonable ground to believe that such witness will unlawfully fail to obey a subpœna issued and served in the usual course in such cases; and in such case the usual witness fee shall be paid to such witness so attached: *Provided*, That the person so attached may at any time secure his or her discharge from custody by executing a recognizance with sufficient surety, conditioned for the appearance of such person at the proper time, as a witness in the cause or proceeding wherein the attachment may be issued.

Attachment of witnesses.

Proviso.

Recognizance.

SEC. 3. That whoever commits adultery shall be punished by imprisonment in the penitentiary not exceeding three years; and when the act is committed between a married woman and a man who is unmarried, both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man shall be deemed guilty of adultery.

Punishment for adultery.

HeinOnline -- 1887 35 1887

Punishment for incest.

SEC. 4. That if any person related to another person within and not including the fourth degree of consanguinity computed according to the rules of the civil law, shall marry or cohabit with, or have sexual intercourse with such other so related person, knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment in the penitentiary not less than three years and not more than fifteen years.

Punishment for fornication.

SEC. 5. That if an unmarried man or woman commit fornication, each of them shall be punished by imprisonment not exceeding six months, or by a fine not exceeding one hundred dollars.

Marriage ceremonies in the territories.

Certificates.

SEC. 9. That every ceremony of marriage or in the nature of a marriage ceremony of any kind, in any of the territories of the United States, whether either or both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest and person, by whatever style and designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony, and by every officer, priest and person taking part in the performance of such ceremony, and shall be by the officer, priest or other person solemnizing such marriage or ceremony filed in the office of the probate court; or, if there be none, in the office of the court having probate powers in the county or district in which such ceremony shall take place, for record, and shall be immediately recorded, and be at all times subject to inspection as other public records. Such certificate, or the record thereof, or a duly certified copy of such record shall be *prima facie* evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. Any person who shall wilfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court.

To be prima facie evidence.

Penalty for violation.

HeinOnline -- 1887 36 1887

Other proof admissable.

SEC. 10. That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible for that purpose.

Proceedings to forfeit property of corporations. Vol. 12 p. 501, R.S., sec. 1890, p. 333.

SEC. 13. That it shall be the duty of the attorney general of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of corporations obtained or held in violation of section three of the act of congress approved the first day of July, eighteen hundred and sixty-two, entitled "An act to punish and prevent the practice of polygamy in the territories of the United States and other places, and disapproving and annulling certain acts of the legislative assembly of the territory of Utah," or in violation of section eighteen hundred and ninety of the revised statutes of the United States; and all such property so forfeited and escheated to the United States shall be disposed of by the secretary of the interior, and the proceeds thereof applied to the use and benefit of the common schools in the territory in which such property may be: *Provided*, That no building, or the grounds appurtenant thereto, which is held and occupied exclusively for purposes of the worship of God, or parsonage connected therewith, or burial ground shall be forfeited.

Proceeds.

Proviso.

Houses of worship, etc., excepted.

Production of books, etc.

SEC. 14. That in any proceeding for the enforcement of the provisions of law against corporations or associations acquiring or holding property in any territory of the United States, in excess of the amount limited by law, the court before which such proceeding may be instituted shall have power in a summary way to compel the production of all books, records, papers, and documents of or belonging to any trustee or person holding or controlling or managing property in which such corporation may have any right, title, or interest whatever.

Dower rights.

SEC. 18. (*a*) A widow shall be endowed of third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage unless she shall have lawfully released her right thereto.

Widow of alien.

(*b*) The widow of any alien who at the time of his death shall be entitled by law to hold any real estate, if she be an inhabitant of the territory at the time of such death, shall be entitled to dower of such estate in the same manner as if such alien had been a native citizen.

Lands exchanged for land.

(*c*) If a husband seized of an estate of inheritance in lands exchanges them for other lands, his widow shall

HeinOnline -- 1887 37 1887

not have dower of both, but shall make her election to be endowed of the lands given or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

Out of mortgaged lands.

(*d*) When a person seized of an estate of inheritance in lands shall have executed a mortgage, or other conveyance in the nature of mortgage, of such estate, before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged or so conveyed as against every person except the mortgagee or grantee in such conveyance and those claiming under him.

Lands purchased and mortgaged.

(*e*) Where a husband shall purchase lands during coverture, and shall at the same time execute a mortgage, or other conveyance in the nature of mortgage, of his estate in such lands to secure the payment of the purchase-money, his widow shall not be entitled to dower out of such lands, as against the mortgagee, or grantee in such conveyance, or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to her dower in such lands as against all other persons.

Sales under mortgage.

(*f*) Where in such case the mortgagee, or such grantee or those claiming under him, shall, after the death of the husband of such widow, cause the land mortgaged or so conveyed to be sold either under a power of sale contained in the mortgage or such conveyance or by virtue of the decree of a court if any surplus shall remain after payment of the moneys due on such mortgage or such conveyance, and the costs and charges of the sale, such widow shall nevertheless be entitled to the interest or income of the one-third part of such surplus for her life, as her dower.

Absolute interest necessary.

(*g*) A widow shall not be endowed of lands conveyed to her husband by way of mortgage unless he acquire an absolute estate therein during the marriage period.

Barred by divorce.

(*h*) In case of divorce dissolving the marriage contract for the misconduct of the wife, she shall not be endowed.

Trustees for real property of religious corporations.

SEC. 26. That all religious societies, sects, and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a territory, only on the nomination

HeinOnline -- 1887 38 1887

of the authorities of such society, sect, or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect, or congregation.

Received by the President, February 19, 1887.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the president of the United States for his approval, and not having been returned by him to the house of congress in which it originated within the time prescribed by the constitution of the United States, has become a law without his approval.]

HeinOnline -- 1887 39 1887

CHAPTER TWO.

Of Provisions Concerning Particular Organized Territories.

SECTIONS RELATING TO THE TERRITORY OF MONTANA

Boundaries and establishment of Montana. 26May, 1864.

SEC. 1903. All that part of the territory of the United States included within the following limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latituue; thence due west on the forty-fifth degree of latitude, to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward, along the crest of the Bitter Root mountains, to its intersection with the thirty-ninth degree west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British possessions; thence eastward, along that boundary line, to the twenty-seventh degree of longitude west from Washington; thence southward, along the twenty-seventh degree of longitude, to the place of beginning,—is created into a temporary government by the name of the Territory of Montana.

Delegate to congress from Montana must be a citizen of the United States. Ibid.

SEC. 1906. The delegate to the house of representatives from each of the territories of Washington, Idaho and Montana, must be a citizen of the United States.

The judicial power—how vested in Montana.

SEC. 1907. The judicial power in New Mexico, Utah, Washington, Colorado, Dakota, Idaho, Montana, and Wyoming shall be vested in a supreme court, district courts, probate courts, and in justices of the peace.

HeinOnline -- 1887 40 1887

SEC. 1909. Writs of error and appeals from the final decisions of the supreme court of either of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming shall be allowed to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath of either party, or of other competent witnesses, exceeds five thousand dollars, exclusive of costs, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the supreme courts created by this title, or of any judge thereof, or of the district courts created by this title, or of any judge thereof, upon writs of *habeas corpus* involving the question of personal freedom.

Writs of error to United States supreme court.
Ibid., 23 June 1874.

SEC. 1910. Each of the district courts in the territories mentioned in the preceding section shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of the respective district courts, or so much thereof as is necessary, shall be appropriated to the trial of causes arising under such constitution and laws; but writs of error and appeals in all such cases may be had to the supreme court of each territory, as in other cases.

Jurisdiction of district courts under constitution, etc.
Ibid.

SEC. 1914. The judges of the supreme courts of the territories of Idaho and Montana, or a majority of them shall, when assembled at their respective seats of government, define the judicial districts of each of such territories, and assign the judges who may be appointed for each of such territories to the several districts; and shall also fix the times and places for holding court in the several counties or sub-divisions in each of such judicial districts, and alter the times and places of holding the courts, as to them may seem proper and convenient; but not less than two terms a year shall be held at each place of holding court in the territory of Montana.

Judges of supreme court in Idaho and Montana to define judicial district, etc.
Mont., 2 March, 1867.

SEC. 1926. Justices of the peace, in the territories of New Mexico, Utah, Dakota, and Wyoming, shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds one hundred dollars.

Jurisdiction of justices of the peace in New Mexico and other territories.
Ibid.

HeinOnline -- 1887 41 1887

Jurisdiction of probate courts in Montana.
2 Mar., 1867.

SEC. 1932. The probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of the grand jury; but they shall not have jurisdiction of any matter in controversy when the title or right to the peaceable possession of land may be in dispute, or of chancery or divorce causes; and in all cases an appeal may be taken from any order, judgment, or decree of the probate courts to the district court.

Legislative expenses in Washington, Idaho and Montana.
Mont., 26 May, 1864.

SEC. 1940. There shall be appropriated, respectively, for the territories of Washington, Idaho, and Montana, annually, a sufficient sum, to be expended by the secretary of each territory herein named, upon an estimate to be made by the secretary of the treasury, to defray the expenses of the legislative assembly and other incidental expenses. The governor and secretary of each territory above specified shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the treasury, and shall, semi-annually, account to such secretary for the manner in which such sums of money have been expended.

No payment of salaries in certain territories until officers enter on their duties.
Ibid.

SEC. 1941. No payment of salary shall be made to the governor, secretary, chief justice, and associate justices of Washington, Idaho, and Montana territories, until such officers have entered upon the duties of their respective appointments.

Mileage in Idaho and Montana.
Ibid.

SEC. 1943. The members of the legislative assembly of Idaho and Montana territories shall each receive four dollars for every twenty miles' travel in going to and returning from the sessions of their respective bodies, estimated according to the nearest usually traveled route.

Seat of government; how changed in Idaho and Montana.
Ibid.

SEC. 1945. The seat of government, when once fixed by the governor and legislative assembly of Idaho and Montana, respectively, shall not be at any time changed, except by an act of such assembly for each territory, respectively, duly passed and approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

School lands in certain territories.
Ibid.

SEC. 1946. Sections numbered sixteen and thirty-six, in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming shall be reserved for the purpose of being

HeinOnline -- 1887 42 1887

applied to schools in the several territories herein named, and in the states and territories hereafter to be erected out of the same.

Disbursing officers in Washington, Idaho and Montana to give security. Ibid.

SEC. 1951. All officers to be appointed by the president by and with the advice and consent of the senate, for the territories of Washington, Idaho and Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

HeinOnline -- 1887 43 1887

Session Laws of Congress

Relating to Government in Montana.

ENACTED SUBSEQUENT TO THE REVISION.

FORTY-THIRD CONGRESS. SESSION I. CHAPTER 80.—An act concerning the practice in territorial courts, and appeals therefrom.

Preamble.

WHEREAS, by the organic acts establishing several of the territories of the United States, it is provided that certain courts thereof shall have common law and chancery jurisdiction, and doubts having been entertained whether said jurisdictions must be exercised separately, or whether they may be exercised together in the same proceeding, and whether the codes and rules of practice adopted in said territories which have authorized a mingling of said jurisdictions in the same proceeding, or a uniform course of proceeding in all cases, legal and equitable, are repugnant to the said organic acts respectively: therefore,

Common law and chancery jurisdiction of territorial courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be necessary in any of the courts of the several territories of the United States to exercise separately the common law and chancery jurisdictions vested in said courts; and that the several codes and rules of practice adopted in the said territories respectively, in so far as they authorize a mingling of said jurisdictions, or a uniform course of proceedings in all cases, whether legal or equitable, be confirmed; and that all proceedings heretofore had or taken in said courts, in conformity with said respective codes and rules of practice, so far as relates to the form and mode of proceeding, be, and the same are hereby validated and confirmed; *Provided*, That no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law.

Trial by jury.

HeinOnline -- 1887 44 1887

Appellate jurisdiction of supreme court of United States; how exercised.

SEC. 2. That the appellate jurisdiction of the supreme court of the United States, over the judgments and decrees of said territorial courts in cases of trial by jury, shall be exercised by writ of error, and in all other cases by appeal, according to such rules and regulations as to form and modes of proceeding as the said supreme court has prescribed, or may hereafter prescribe: *Provided*, That on appeal, instead of the evidence at large, a statement of the facts of the case in the nature of a special verdict, and also the rulings of the court on the admission or rejection of evidence when excepted to, shall be made and certified by the court below, and transmitted to the supreme court, together with the transcript of the proceedings and judgment or decree; but no appellate proceedings in said supreme court, heretofore taken upon any such judgment or decree, shall be invalidated by reason of being instituted by writ of error or by appeal: *And provided further*, That the appellate may make any order in any case heretofore appealed, which may be necessary to save the rights of the parties; and that this act shall not apply to cases now pending in the supreme court of the United States where the record has already been filed.

Proceedings on appeal.

Proviso.

Approved, April 7, 1874.

IBID. CHAP. 332.—An act to amend the act entitled "An act transferring the control of certain territorial penitentiaries to the several territories in which the same are located," approved January twenty-fourth, eighteen hundred and seventy-three.

Penitentiaries in Montana, Idaho and Wyoming territories.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the act entitled "An act transferring the control of certain territorial penitentiaries to the several territories in which the same are located," approved January twenty-fourth, eighteen hundred and seventy-three, be, and the same is hereby amended by striking out the words Montana, Idaho, and Wyoming, wherever the same occur in said act, and the said act shall hereafter have no applicability to the territories of Montana, Idaho and Wyoming.

To continue under control of United States marshals.

SEC. 2. That the penitentiaries in the territories of Montana, Idaho, and Wyoming shall continue under the care and control of the marshal of the United States for said territoriies, under and pursuant to the provisions of the act entitled "An act in relation to certain territorial penitentiaries," approved January tenth, eighteen hundred and seventy-one; which said last men-

HeinOnline -- 1887 45 1887

tioned act is hereby revived and re-enacted so far as the same applies to the territories of Montana, Idaho, and Wyoming.

Approved June 20, 1874.

FORTY-THIRD CONGRESS. SESSION II, CHAPTER 114. An act to protect all citizens in their civil and legal rights.

Preamble.

WHEREAS, it is essential to just government we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: therefore,

Equal enjoyment of inns, public conveyances, theatres, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of sevitude.

Forfeit to person aggrieved by denial of equal enjoyment of inns, etc.

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall,

Punishment for denying, etc.

for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs, and shall also, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year: *Provided*, That

Election of remedies.

all persons may elect to sue for the penalty aforesaid or to proceed under their rights at common law and by state statutes; and having so elected to proceed in the

Effect of recoveries.

one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this proviso shall not apply to criminal proceedings, either under this act or the criminal law of any state: *And provided further*, That a judgment for the penalty in favor of the

HeinOnline -- 1887 46 1887

party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution, respectively.

Jurisdiction of courts under this act.

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several states cognizance of all crimes and offences against, and violations of provisions of this act; and actions for the penalty given by the preceding section may be prosecuted in the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party, and the district attorneys, marshals and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against the laws of the United States, are hereby specially authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offence, except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases; *Provided*, That nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person whether by reason of this act or otherwise; and any district attorney who shall wilfully fail to institute and prosecute the proceedings herein required shall, for every such offence, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars: *And provided further*, That a judgment for the penalty in favor of the party aggrieved against any such district attorney, or a judgment upon an indictment against any such district attorney, shall be a bar to either prosecution respectively.

Duty of district attorneys, marshals and commissioners under this act.

Right of civil action not affected.

Failure of district attorney to prosecute.

Effect of judgment against district attorney.

Exclusion from service as juror.

SEC. 4. That no citizen possessing all other qualifications which are or may be prescibed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any state, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause

HeinOnline -- 1887 47 1887

Penalty for excluding, etc.

aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

Review in supreme court.

SEC. 5. That all cases arising under the provisions of this act in the courts of the United States shall be reviewable by the supreme court of the United States without regard to the sum in controversy, under the same provisions and regulations as are now provided by law for the review of other causes in said court.

Approved March 1, 1875.

Salaries of territorial officers, when to commence.

Oaths, where administered.

1 May, 1876.

FORTY-FOURTH CONGRESS. SESSION I. CHAP. 88. EXTRACT. * * * * And hereafter payment of salaries of all officers of the territories of the United States appointed by the president, shall commence only when the person appointed to any such office shall take the proper oath, and shall enter upon the duties of such office in such territory; and said oath shall hereafter be administered in the territory where such office is held.

Sessions of legislature.

15 Aug., 1876.

IBID. CHAP. 287. EXTRACT. Territory of Montana: * * * * *Provided*, That the next legislative assembly shall convene at the seat of government of the territory on the second Monday of January, eighteen hundred and seventy-seven, and biennially thereafter.

FORTY-FOURTH CONGRESS. SESSION II. CHAP. 107.

Desert lands may be purchased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre—to file a declaration, under oath, which the register and receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter: *Provided, however*, That the right to the use of water by the person so conducting the same, on or to any tract of desert land of six hundred and forty acres, shall depend upon *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navi-

Declaration.

3 Mar., 1877.

Right to use water.

Water on public lands to be free.

Contents of declaration.

HeinOnline -- 1887 48 1887

gable, shall be held and remain free from the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land, if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within a period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land, in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, That no person shall be permitted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

Perfection of title.

Limit to quantity of land purchasable.

SEC. 2. That all lands exclusive of timber lands and mineral lands, which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses, under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

Desert lands defined.

SEC. 3. This act shall only apply to and take effect in the states of California, Oregon and Nevada, and the territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the commissioner of the general land office.

Localities in which act to apply.

FORTY-FIFTH CONGRESS. SESSION II. CHAP. 37. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in the trial of all indictments, informations, complaints, and other proceedings against persons charged with the commission of crimes, offenses, and misdemeanors, in the United States' courts, teritorial courts, and courts-martial, and courts of equity, in any state or territory, including the District of Columbia, the person so charged shall, at his own request, but not otherwise, be a competent witness. And his failure to make such request shall not create any presumption against him.

Accused persons may testify.
16 Mar., 1878.

HeinOnline -- 1887 49 1887

IBID. CHAP. 76. EXTRACT. * * * * * *And provided further*, That where wood and timber lands in the territories of the United States are not surveyed and offered for sale in the proper sub-divisions, convenient of access, no money herein appropriated shall be used to collect any charge for wood or timber cut on the public lands in the territories of the United States, for the use of actual settlers in the territories, and not for export from the territories of the United States, where the timber grew: *And provided further*, That if any timber cut on the public lands shall be exported from the territories of the United States, it shall be liable to seizure by the United States authority wherever found.

Wood cut on unsurveyed land.
30 Apr., 1878.

IBID. CHAP. 150. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the citizens of the United States, and other persons *bona fide* residents of the states of Colorado or Nevada, or either of the territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said states, territories or districts, of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the secretary of the interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

Timber and mineral lands may be taken for certain purposes.
3 June, 1878.

Proviso.

SEC. 2. That it shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purpose authorized by this act, within their respective land districts; and, if so, they shall immediately notify the commissioner of the general land office of the fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts.

Taking, etc., for unauthorized purposes.

HeinOnline -- 1887 50 1887

Penalty.

SEC. 3. Any person or persons who shall violate the provisions of this act or any rules and regulations in pursance thereof made by the sectetary of the interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

Municipal corporations in territories. 8 June, 1878. Sec. 1889 R. S., page 133, construed.

IBID. CHAP. 168. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the words "the legislative assemblies of the several territories shall not grant private charters or special privileges" in section eighteen hundred and eighty-nine of the revised statutes of the United States shall not be construed as prohibiting the legislative assemblies of the several territories of the United States from creating towns, cities or other municipal corporations, and providing for the government of the same, and conferring upon them the corporate powers and privileges, necessary to their local administration, by either general or special acts; and that all general and special acts of such legislative assemblies heretofore passed creating and providing for the government of towns, cities, or other municipal corporations, and conferring such rights, powers and privileges upon the same, as were necessary to their local administration, be, and the same are hereby, ratified and confirmed and declared to be valid, any law to the contrary notwithstanding; subject, however, to amendment or repeal hereafter by such territorial assemblies. But nothing herein shall have the effect to create any private right, except that of holding and executing municipal offices, or to divest any such right, or to make valid or invalid any contract or obligation heretofore made by or on behalf of any such town, city, or other municipal corporation, or to authorize any such corporation to incur hereafter any debt or obligation other than such as shall be necessary to the administration of its internal affairs.

Private rights.

Contracts.

Corporation debts.

Councils and houses of representatives in territories. 19 June, 1878.

IBID. CHAP. 329. EXTRACT. * * * That from and after the adjournment of the next session of the several territorial legislatures the council of each of the territories of the United States shall not exceed twelve members, and the house of representatives of each shall not exceed twenty-four members, and the members of each branch of the said several legislatures shall receive a compensation of four dollars per day each during the sessions provided by law, and shall receive such mileage as the law provides; and the

Number.

Compensation.

HeinOnline -- 1887 51 1887

president of the council and the speaker of the house of representatives shall each receive six dollars per day for the same time. And the several legislatures at their next sessions are directed to divide their respective territories into as many council and representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population, except "Indians not taxed;" *Provided*, The number of council districts shall not exceed twelve, and the representative districts shall not exceed twenty-four in any one of said territories, and all parts of sections eighteen hundred and forty-seven, eighteen hundred and forty-nine, eighteen hundred and fifty-three, and nineteen hundred and twenty-two of the revised statutes of the United States in conflict with the provisions herein, are repealed.

Districts.

Proviso.

That the subordinate officers of each branch of said territorial legislatures shall consist of one chief clerk, who shall receive a compensation of six dollars per day; one enrolling and engrossing clerk, at five dollars per day; sergeant-at-arms and doorkeeper, at five dollars per day; one messenger and watchman, at four dollars per day each; and one chaplain, at one dollar and fifty cents per day. Said sums shall be paid only during the sessions of said legislatures; and no greater number of officers or charges per diem shall be paid or allowed by the United States to any territory. And section eighteen hundred and sixty-one of the revised statutes is hereby repealed, and this substituted in lieu thereof; *Provided*, That for the performance of all official duties imposed by the territorial legislatures, and not provided for in the organic act, the secretaries of the territories, respectively, shall be allowed such fees as may be fixed by the territorial legislatures. And in no case shall the expenditures for public printing in any of the territories exceed the sum of two thousand five hundred dollars for any one year.

Officers of legislatures. Salaries.

Secretary's fees.

Printing.

IBID. CHAP. 362. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands of the United States and other privileges heretofore granted by law to the Utah Northern railroad company are hereby modified and regranted so as to enable the Utah Northern railway company and its assigns to build their road by the way of Marsh valley, Portneuf river, and Snake river valley instead of by the way of Soda Springs and Snake river valley as originally granted.

Utah & Northern Ry. company. 20 June, 1878.

Right of way modified.

HeinOnline -- 1887 52 1887

To be a corporation in Utah, Idaho, and Montana.

SEC. 2. And said company is hereby made a railway corporation in the territories of Utah, Idaho and Montana, under the same conditions and limitations and with the same rights and privileges that it now has and enjoys under its articles of incorporation: *Provided*, That said corporation shall at all times hereafter be subject to all the laws and regulations in relation to railroads of the United States or of any territory or state through which it may pass. And suits against said corporation may be instituted in the courts of said territories, or either of them, having jurisdiction by the laws of such territory.

Proviso.

Suits.

Amendments.

SEC. 3. Congress may at any time add to, alter, amend or repeal this act.

Apr. 16, 1880.

FORTY-SIXTH CONGRESS. SESSION II. CHAP. 56. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when, from any cause, there shall be a vacancy in the office of justice of the peace in any of the territories of the United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such territory: *Provided*, That such appointee, or person elected to fill such vacancy, shall hold office only until his successor shall be regularly elected and qualified, as provided by law.

Justices of the peace in the territories — filling vacancies in office of.

Proviso.

IBID. CHAP. 235. EXTRACT. * * * * * * That the legislative assemblies of the several territories of the United States may make such provisions for the care and custody of such persons as may be convicted of crime under the laws of such territory as they shall deem proper; and for that purpose may authorize and contract for the care and custody of such convicts in any other territory or state; and provide that such person or persons may be sentenced to confinement accordingly in such other territory or state; and all existing legislative enactments of any of the territories for that purpose are hereby legalized: *Provided*, That the expense of keeping such prisoners shall be borne by the respective territories, and no part thereof shall be borne by the United States.

Care and custody of convicts of any territory contracted for in any other territory or state.

Proviso.

HeinOnline -- 1887 53 1887

[PUBLIC—No. 6.]

AN ACT amending section 1852 of the revised statutes of the United States.

Be it enated by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1852, be and the same hereby is, so amended as to read as follows:

Length of sessions of legislative assemblies of the several territories limited to sixty days.

SEC. 1852. The sessions of the legislative assemblies of the several territories of the United States shall be limited to sixty days' duration.

Approved December 23, 1880.

Expenses for printing for the several territories limited to $3,750 for each session.

FORTY-SEVENTH CONGRESS. SESSION I. CHAP. 389. EXTRACT. * * * * * And hereafter no expense for printing exceeding three thousand seven hundred and fifty dollars, including printing laws, journals, bills, and necessary printing of the same nature, shall be incurred for any session of the legislature of any of the territories.

Approved August 5, 1882.

[PUBLIC—No. 101.]

AN ACT regulating appeals from the supreme court of the District of Columbia and the supreme courts of the several territories.

Limiting the amount of claim for which appeal can be taken from the supreme court of any of the territories to the supreme court of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars.

Exceptions.

SEC. 3. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copy-right, or in which is drawn in question the validity of a treaty or statute of or an authority exercised under the United States; but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute.

Approved March 3, 1885.

HeinOnline -- 1887 54 1887

CHAP. 758.—An act relating to the supreme court of Montana Territory and providing for the establishment of judicial districts in said territory. July 10, 1886.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the supreme court of the Territory of Montana shall consist of a chief justice and three associate justices; three of whom shall constitute a quorum; they shall hold their offices for four years, and until their successors are appointed and quailfied; they shall hold a term annually at the seat of government of said territory, *Provided howevер*, That no justice shall act as a member of the supreme court of said Territory of Montana in any action or proceeding brought to such court by writ of error, bill of exceptions, or appeal from a decision, judgment, or decree rendered by him as judge of a district court.

Montana territory.
Additional justice to supreme court of.

Proviso.
No judge to sit in appeal from his decision.

SEC. 2. That said territory shall be divided into four judicial districts, and a district court shall be held in each district of the territory by one of the justices of the supreme court, at such time and place as may be prescribed by law.

Territory to be divided into four districts.

SEC. 3. That all offenses committed before the passage of this act shall be prosecuted, tried and determined in the same manner and with the same effect as if this act had not been passed.

Offenses committed prior to act to be tried in present courts.

Approved July 10, 1886.

CHAP. 132.—An act authorizing the Secretary of War to adjust and settle the account for arms, ammunition and accouterments between the Territory of Montana and the United States. Feb. 17, 1887.

Be it enacted by the Senate and House of Repesentatives of the United States of America in Congress assembled, That the secretary of war be, and he is hereby, authorized and directed to adjust and balance the account for arms, ammunition and accouterments between the Territory of Montana and the government of the United States, by crediting said territory with the balance now standing against it on said account.

Montana to be credited amount due on ordnance account.

Approved February 17, 1887.

HeinOnline -- 1887 55 1887

HeinOnline -- 1887 56 1887

LAWS OF MONTANA.

PASSED AT THE EXTRAORDINARY SESSION

OF THE

FIFTEENTH LEGISLATIVE ASSEMBLY.

COUNTY ATTORNEYS NOT TO TRY CASES IN SUPREME COURT.

AN ACT relative to county attorneys.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That hereafter, county attorneys shall not attend nor try cases in the supreme court in any case when the territory or county is a party, nor shall they receive mileage for attendance thereon nor fees for trying cases therein.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repeated [repealed.]

Approved September 14, 1887.

CONCERNING THE TERMS OF OFFICE OF COUNTY ASSESSOR.

AN ACT concerning the terms of office of county assessor.

Be it enacted by the Legislative assembly of the Territory of Montana:

SECTION 1. That no person who shall have served five terms successively in any county of the terrritory as the assessor thereof, shall be eligible to the next succeeding term.

SEC. 2. That all acts and parts of acts in conflict with this act be, and the same are hereby repealed.

Approved September 14, 1887.

HeinOnline -- 1887 57 1887

BOUNTY FOR KILLING CERTAIN WILD ANIMALS.

AN ACT to provide for a bounty for killing certain wild animals.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That from and after the passage of this act there shall be paid out of the treasuries of the respective counties, at the option of the boards of commissioners thereof, under such regulations as such boards of commissioners, respectively, may prescribe, the following bounties for the killing of wild animals: Not to exceed, for mountain lions, wolves and coyotes, one dollar each; prairie dogs and ground squirrels, three cents each: *Provided*, That no bounty shall be paid for the killing of any of said animals outside of the county where said bounty is to be paid, nor upon any Indian reservation, nor within the National Park.

Sec. 2. That all acts and parts of acts in conflict with this act, and all other acts providing for the payment of bounties for killing wild animals are hereby repealed.

Approved September 13, 1887.

REPEALING ALL LAWS RELATING TO THE PAYMENT OF BOUNTIES FOR KILLING WILD ANIMALS.

AN ACT to repeal all laws relating to the payment of bounties for killing wild animals.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all laws or parts of laws authorizing the payment of bounties for the killing of ground squirrels, prairie dogs, wolfe, cayote, lion, bear, or other wild animals be, and the same are hereby repealed.

SEC. 2. All acts or parts of acts in conflict of this act are hereby repealed.

Appproved September 14, 1887.

CONCERNING MARKS AND BRANDS.

AN ACT to amend section 172 of the Fifth Division of the compiled statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 172. That section 172, of the fifth division of the compiled statutes of the territory of Montana be, and the same is hereby amended to read as follows:

SEC. 110. The general recorder of brands and marks shall an-

HeinOnline -- 1887 58 1887

nually have published as an appendix to the report of the board of stock commissioners to the governor, a list of all brands or marks and brands which have not been previously published, and cause the same to be printed and illustrated, and cause the appendix to be printed at his own expense, and a sufficient number of copies in pamphlet form to furnish each county clerk with one hundred copies therof for free distribution to those engaged in stock growing. The general recorder may charge and receive from each person recording a brand, or mark and brand, a fee of two dollars for each brand or mark and brand so recorded. And it is hereby made unlawful for any person or persons, association or corporation, within the territory of Montana, to use any unrecorded brand which is an infringment upon any recorded brand; *Provided*, That this shall not be construed to prohibit the use of any figure, symbol or other mark in addition to a recorded brand to indicate age, condition or classification. It shall also be unlawful to use any brand, such as a sash, fryingpan or any other brand or device whatever, which can be employed or used to obliterate any brand. Any person violating these provisions shall be fined in a sum not less than one hundred dollars or more than five hundred dollars, or be imprisoned in the county jail not to exceed sixty days or be punished by both such fine and imprisonment The territorial treasurer, shall immediately after the approval of this act, deliver to the secretary of the board of stock commissioners all books and papers in his possession belonging to said office of general recorder of brands and marks.

Approved September 13, 1887.

CONCERNING THE COMPENSATION OF PUBLIC AND OTHER ADMINISTRATORS.

AN ACT to amend section 253, second division, of the compiled statutes of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 253, second division, of the compiled statutes of Montana, be and the same is hereby amended so as to read as follows, to-wit: When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commission on all sums of money only actually received by him from the sale of property of the estate, or actually disbursed by him in the settlement of the estate, as follows: For the first one thousand dollars, at the rate of seven per cent.; for all above that sum, at the rate of four per cent.; and the same commission must be allowed public administrators and other administrators, which shall be the commission herein provided for. In all cases such further allowance may be made as the probate judge may deem just and reasonable for any extraordinary services; the total amount of

HeinOnline -- 1887 59 1887

such services must not exceed the total amount of the commission allowed by this section.

Approved September 14, 1887.

CONCERNING MARRIAGE LICENSES.

A BILL for an act concerning marriages.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. That all the duties now devolved by law upon the county clerks of the several counties of the territory, by virtue of the provisions of the act entitled, "An act concerning marriages," approved March 9, 1887, shall be performed by the probate judge of the probate court of the proper county, and that all applications for a license for the solemnization of any marriages required by the said act shall be made to the probate judge of the county in which the marriage is to take place; and that the fee heretofore required under the provisions of the said act, to be paid to the county clerks before the issuance of the said licenses, shall be reduced to the sum of two dollars, which shall be paid to the said probate judge.

Approved September 14th, 1887.

CREATING THE OFFICE OF ATTORNEY GENERAL.

AN ACT to create the office of Attorney General of the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the office of attorney general of the territory be, and the same is hereby created, and the governor of said territory by and with the advice and consent of the legislative council shall appoint an attorney general, who shall enter upon the discharge of the duties of his office on or before the twentieth (20th) day after his appointment, and shall hold office for the term of two (2) years, or until his successor is appointed and qualified, and shall take and subscribe the same oath of office as is by law prescribed by the territorial auditor, and shall execute a bond to the territory of Montana, in the penal sum of two thousand dollars ($2,000) with two good and sufficient sureties, to be approved and filed by the secretary of the territory, conditioned upon the faithful discharge of his official duties.

SEC. 2. The attorney general shall reside and keep his office at the capitol in said territory, and shall receive a salary of two thousand dollars ($2,000) per annum, which shall be paid quarterly out of the territorial treasury.

HeinOnline -- 1887 60 1887

SEC. 3. All necessary expenditures of money incurred by the attorney general, not exceeding five hundred dollars per annum, for traveling, rent, fuel, postage, stationery, printing, expressage, etc., shall be paid out of any fund in the territorial treasury not otherwise appropriated, and the territorial auditor is hereby authorized to issue his warrant on the treasurer for the same, and said treasurer is hereby directed to pay such warrant.

SEC. 4. The attorney general shall be entitled to and shall receive a copy of all the reports of the supreme court of the territory, of the statute and session laws, and of all the public printed documents of the several official departments of this territory.

SEC. 5. The attorney general shall, at the expiration of his term of office, deliver over, on demand, to his successor, all property, books, documents, maps, reports, records, and other papers belonging to his office, or which may have been received by him for the use of his office.

SEC. 6. It shall be the duty of the attorney general, to prosecute and defend all actions in the supreme court of the territory in which the territory shall be interested, and when requested by the governor or either branch of the legislative assembly to appear for the people of this territory in any other court or tribunal in any cause or matter, civil or criminal, in which the people of this territory may be a party or interested.

SEC. 7. It shall be the duty of the attorney general, at the request of the governor, the secretary of the territory, the territorial treasurer, the territorial auditor or superintendent of public instruction, to prosecute and defend all suits relative to matters connected with their several departments.

SEC. 8. It shall also be the duty of the attorney general when required, to give his opinion upon all questions of law submitted to him by the legislative assembly or either branch thereof. or by the governor, secretary of the territory, territorial auditor, territorial treasurer or superintendent of public instruction, and the boards of commissioners of the several counties of this territory.

SEC. 9. The attorney general shall keep, in proper books, to be provided for that purpose at the expense of the territory, a register of all actions or demands prosecuted or defended by him in behalf of said territory, and of all proceedings had in relation thereto, and shall deliver the same to his successor in office.

SEC. 10. This act shall take effect from and after its passage.

Approved September 14, 1887.

HeinOnline -- 1887 61 1887

RELATING TO THE FORMATION OF MUNICIPAL CORPORATIONS.

AN ACT to amend an act relating to the formation of Municipal Corporations. Approved March 10, 1887.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 4 of an act relating to the formation of municipal corporations, approved March 10, 1887, be amended so as to read as follows:

SEC. 4. When any incorporation of a city or town is completed, the board of county commissioners shall give notice for thirty days in a newspaper published within the limits of the city or town; or if none be published therein, by posting notices in six public places within the limits of the corporation, of the time and place or places of holding the first election for officers of the corporation. At such election, all electors qualified by the general election laws of the territory, and who have resided within the limits of the city or town for three months preceding the election, shall be qualified electors, and shall choose officers for the city or town to hold office until the first annual election of officers, as hereinafter prescribed. At said election there shall be elected one mayor, one police magistrate, one city attorney, one city treasurer and two aldermen from each ward into which the city may be divided, if the incorporation be of the grade of a city; if it be a town, the electors shall choose a mayor and six aldermen, who shall manage the affairs of the corporation until the next general election. The persons so elected shall qualify in the manner prescribed by law for county officers. The board of county commissioners shall appoint judges and clerks of election and shall canvass and declare the result thereof. The election shall be conducted in the manner required by law for the election of county officers. At the first meeting of the board of aldermen of towns incorporated under this act they shall be divided into two classes. The seats of the first class shall become vacant in one year. The seats of the second class shall become vacant in two years. They shall also by ordinance divide the town into three districts, and at all annual elections thereafter an alderman shall be elected from each district by the electors of such town.

SEC. 2. That subdivision IX. of section 11 of said act be amended as read as follows: To contract an indebtedness on behalf of the city or town upon the credit thereof, by borrowing money or issuing bonds for the following purposes to-wit: Erecting public buildings, constructing sewers, constructing water works, supplying the city with water by contract, the purchase of fire apparatus, the construction or purchase of canals or ditches for supplying the city or town with water. The total amount of indebtedness authorized to be contracted in any form, by virtue of this act, shall not any time exceed three per centum of the total

HeinOnline -- 1887 62 1887

assessed valuation of the taxable property of the cities of the first class or three per centum for cities of the second class and towns according to the last assessment: *Provided*, That no money shall be borrowed, or bonds issued for any of the purposes mentioned in this clause until the proposition shall have first been submitted to a vote of the qualified electors of the city or town, and a majority vote cast in favor thereof: *And provided further*, That no city or town incorporated under this act shall be authorized to contract an indebtedness to exceed one per centum of its assessed valuation, according to the last assessment in any one fiscal year.

SEC. 3 That section 29 of said act be amended so as to read as follows:

SEC. 29. The first common council elected as provided under section 4 of this act shall divide the city into wards for election and other municipal purposes, having regard to population, so as to make them as nearly equal as may be: *Provided*, That cities of the first class shall not have less than three wards nor more than ten, and that cities of the second class shall not have less than two wards nor more than four; *And provided further*, That all changes in the number or boundary of wards shall be by ordinance, and no new ward shall be created unless it shall contain within its boundaries at least one hundred and fifty voters at the first annual election thereafter. There shall be chosen one mayor, one police magistrate, one city attorney, one city treasurer and two aldermen from each ward into which the city has been divided. The mayor, police magistrate, city attorney and city treasurer, shall serve for one year from and after the first Monday in May after said election. One of the aldermen elected from each ward at said election shall serve for one year, and the other for two years from and after the first Monday in May after said election. The ballots for alderman shall designate which is voted for for the long term and which for the short term; thereafter one alderman shall be chosen from each ward of the city who shall serve for two years. If any vacancy shall occur in the office of alderman by death, resignation, removal or otherwise, the same shall be filled by election, so that there may be always in the common council two members from each ward, whose term of service shall expire in different years.

SEC. 4. That section 34 of said law be amended so as to read as follows:

SEC. 34. The city council of cities of the first class at its first organization shall elect by ballot, one city clerk, one city marshal, a chief of police, a chief of the fire department, a city surveyor and such number of policemen as the wants or the necessities of the city may require. The persons so elected shall serve until the first annual election thereafter; the city council elected at the regular annual election shall in like manner elect by ballot the officers mentioned and any other officers whose office is created by

HeinOnline -- 1887 63 1887

ordinance. They shall have power to fix by ordinance the salary, emoluments or fees of all the officers whom they shall elect or appoint to prescribe their duties and provide for their suspension or removal in cases of neglect, misconduct, or dereliction of duty; *Provided*, That the city council of a city of the second class shall elect in like manner only such officers whose office is created by ordinance.

SEC. 5. That section 43 of said law be amended so as to read as follows:

SEC. 43. The city marshal shall receive and be paid a salary to be fixed by ordinance not exceeding two hundred dollars per month. He shall execute and return all writs and processes to him directed by the police magistrate for violation of the city ordinances. He shall apprehend and arrest any person in the act of committing any offence against the laws of the territory or ordinances of the city, with or without warrant, and bring such person forthwith before the police magistrate for examination or trial. He shall report to the city council all delinquencies, neglect of duty or official misconduct of the chief of police or policemen, for the action of the council. In the discharge of his duties he shall possess like powers and be subject to like responsibilities as are constables of the counties. He shall have charge and control of the chief of police and policemen. He shall hold his office for one year from and after his election unless suspended or removed by the council for the violation or neglect of the duties devolved upon him by this act, and the ordinances of the city. In case of suspension or removal, the city council may elect by ballot a person in his stead, who shall hold office for the unexpired term of the marshal so removed,

SEC. 6. That section 44 of said law be amended so as to read as follows:

SEC. 44. The city attorney to be elected shall be a person who has been licensed to practice as an attorney in this territory. He shall hold his office for one year unless suspended or removed as provided by this act. It shall be the duty of the city attorney to attend before the police court and other courts of the city and the district court, and prosecute in behalf of the city; and he shall generally do and perform such other acts as pertain to the office of the city or corporation council. He shall, when required, draw for the use of the council, contracts and ordinances for the government of the city, and when required shall give to the mayor or city council, written opinions on questions pertaining to the duties and the rights, habilities and powers of the corporation. For such services he shall receive such salary and fees as may be fixed by the city council by ordinance. Nothing herein shall be taken or construed as preventing the city council from employing other and additional counsel in special cases, and providing for the payment for such services. The city attorney may be suspended or removed from office by the city council for the neglect, violation, or disregard of

HeinOnline -- 1887 64 1887

the duties required by this act or the ordinances of the city. In case of suspension or removal, the city council may elect a successor in his stead who shall hold office for the unexpired term of the attorney removed.

SEC. 7. That section 49 of said law be amended so as to read as follows:

SEC. 49. The city council of each incorporated city or town incorporated under this act shall have the right and power to abolish any of the offices specified in this act, and which they are empowered to fill by ballot, or they may in their discretion consolidate any two or more of the offices mentioned, whether the same be created by ordinance, filled by ballot or provided for in any manner under the provisions of this act, and provide by ordinance for the discharge of the duties when any offices are so consolidated.

SEC. 8. That section 50 of said law be amended so as to read as follows:

SEC. 50. No person shall be eligible to the office of mayor unless he shall be at least twenty-five years old, and a resident of the territory for at least three years, and a resident of the city for which he may be elected mayor two years next preceding his election to said office, and shall reside in the city or town for which he shall be elected mayor during his term of service.

SEC. 9. That section 51 of said law be amended so as to read as follows:

SEC. 51. No person shall be eligible to the office of alderman unless he shall have been a resident of the ward electing him for at least one year preceding such election.

SEC. 10. That section 59 of said law be amended so as to read as follows:

SEC. 59. The mayor of each incorporated city of the first class shall be entitled to receive a salary not exceeding seven hundred and fifty dollars ($750) per annum, to be fixed by ordinance, and each alderman shall be allowed and paid not exceeding three dollars ($3) per diem for each day of session held by the city council: *Provided*, No alderman shall be paid for more than five days' services during any one month: *And provided further*, The mayor and aldermen of cities of the second class and towns shall receive no salary or compensation.

SEC. 11. That section 79 of said law be amended so as to read as follows:

SEC. 79. Upon the petition of two hundred citizens, residents and qualified electors of any municipal corporation existing in this territory addressed to the mayor of the city or town praying that the question of organizing under this act be submitted to the quali-

HeinOnline -- 1887 65 1887

fied voters residing within the limits of the territory embraced in the new corporation proposed to be formed in its stead. The common council or board of aldermen shall thereupon order an election to be held, at which the question of re-incorporation shall be decided. The petition shall be accompanied by a map or plat of the territory to be embraced within the new corporation, and additional territory may be included lying adjacent to or adjoining the boundaries of the existing corporation. If a majority of the qualified voters, as defined by this act and living within the boundaries of the proposed new incorporation, shall vote in favor of the reorganization of the city or town under the provisions of this act, they shall thereupon be incorporated thereunder in all respects and subject to all the provisions of this act as if originally incorporated thereunder. All requirements of this act as to notice of the election, the appointment of judges and clerks thereof, the returns of the election and canvassing the votes given shall be complied with: *Provided*, The returns of the election shall be made to the mayor of the existing city or town and not to the county commissioners.

SEC. 12. That section 101 of said law be amended so as to read as follows:

SEC. 101. The amount of corporation taxes to be assessed and levied in any one year on the taxable property of any city or town shall not exceed three-fourths of one per centum on the assessed valuation of such property except to pay any judgment against a town or city.

SEC. 13. That section 124 of said law be amended so as to read as follows:

SEC. 124. All contracts for the performance of any work in any such city exceeding two hundred dollars shall be let by the city council to the lowest responsible bidder in such manner as they may prescribe, but this provision shall not apply to contracts for the employment of professional services.

SEC. 14. There shall be added to the said law a section to be numbered and designated as section 127, which shall read as follows:

SEC. 127. The following class of property shall be exempt from taxation when situated within the limits of any city or town incorporated under the provisions of this act, to-wit: Mines and the proceeds thereof and mining claims, except those held under a patent from the United States, the surface of which shall be taxed according to its value as other real estate.

Approved September 14, 1887.

HeinOnline -- 1887 66 1887

TO REGULATE TRIAL PRACTICE IN DISTRICT COURTS IN RELATION TO EXCEPTIONS AND INSTRUCTIONS.

AN ACT to regulate trial practice in district courts in relation to exceptions and iustructions.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the charge and instructions given by the court to the jury in all civil and criminal cases and the giving of the same, and the refusal of the court to give any instructions requested by the parties and the modification of any instruction requested and given are deemed excepted to, and no exception need be taken to the same, in writing or otherwise, nor any bill of exception filed.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

Approved September 13, 1887.

CONCERNING THE FEES OF COUNTY CLERKS AND RECORDERS.

AN ACT to amend an act entitled an act to amend sections 535 and 594 of chapter 22 of the fifth division of the revised statutes, approved March 10, 1887,

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of the act entitled an act to amend sections 535 and 594 of chapter twenty-two of the fifth division of the revised statutes, approved March 10, 1887, be amended so that the part thereof entitled section 594, shall read as follows:

SEC. 594. County clerks and recorders shall be entitled to demand and receive the following fees: For filing and recording each instrument of writing allowed by law to be recorded, for the first folio, thirty cents; for each additional folio, fifteen cents; for each entry in index, ten cents; for each certificate of record of title, fifty cents; for acknowledgement, certificate and seal, fifty cents; for copies of record, per folio, fifteen cents; abstract of title, first conveyance, fifty cents; for each subsequent conveyance, twenty-five cents; abstracts from original entries, each fifty cents; for each search of record, twenty-five cents; record of quartz claims, one dollar; for cancelling or releasing any mortgage, attachment or other lien, twenty-five cents; for filing each affidavit of brands of cattle slaughtered, twenty-five cents; for recording town plats, for each two hundred lots or less, ten dollars; for each additional lot, five cents; for filing and indexing chattel mortgage, lien, attachment, or other paper required by law to be filed and indexed, one dollar; for filing and recording each affidavit of lode representation, one dollar; for filing and indexing each annual statement of corporations, one dollar; for filing any paper not herein provided for, twenty-five cents.

Approved, September 14, 1887.

HeinOnline -- 1887 67 1887

CONCERNING THE STORAGE OF GUNPOWDER.

AN ACT to amend an act entitled an act concerning the storage of gunpowder. Approved March 1, 1883.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section two of an act entitled an act concerning the storage of gunpowder be amended so as to read as follows, to-wit:

SEC. 2. No person, company, or corporation shall store, deposit or keep within the limits of any city, town or village, gunpowder, nitro glycerine, guncotton, dynamite and other dangerous or powerful explosives exceeding fifty pounds, and no magazine or storehouse where such explosives are stored or kept, shall hereafter be located nearer than one-half mile from such city, town or village; *Provided*, This act shall not be construed to prevent the keeping of a reasonable supply of powder in any safe place at a mine.

SEC. 3. That all magazines and storehouses for the storage of powder and other combustibles in quantities, if of wood, shall have walls of not less than ten inches in thickness, and if of brick, twelve inches, or of stone, of not less than twenty inches in thickness without openings therein except necessary ventilations and one door not to exceed thirty inches in width. Said door shall be double, one opening outward and the other inward. The outer door shall be of plank not less than two inches in thickness, to be covered on the outside with one-eighth inch iron. Both of said doors shall be kept securely locked at all times, when powder is stored therein, except when it is necessary to store therein or remove therefrom such powder or other explosives. Such building shall be well and securely roofed and from and after the passage of this act it shall be unlawful to store gunpowder or any other of the explosives herein named, in amounts exceeding fifty pounds, elsewhere than in such a storehouse or magazine or underground at a mine.

SEC. 4. Any person violating the provisions of this act shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars.

SEC. 5. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved September 13, 1887.

HeinOnline -- 1887 68 1887

CERTAIN CITIES AND TOWNS TO INCUR INDEBTEDNESS.

AN ACT to enable certain cities and towns to incur indebtedness.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That any incorporated city or town in the territory of Montana having an assessed valuation of twelve hundred thousand dollars or over, is hereby authorized to submit to the qualified electors of such city or town, the question whether coupon bonds shall be issued on the credit of such city or town to an amount not exceeding two (2) per cent of its assessed valuation, for the purpose of constructing water works, public buildings, street grades, bridges, sewers, or other public improvements.

SEC. 2. Any incorporated city or town that may desire to avail itself of the provisions of this act shall give not less than twenty days notice of an election for the particular purpose for which bonds are to be issued in at least one daily newspaper, if there be one published in such city or town, and if not, in some weekly newspaper, and shall cause such notice to be posted in three public places. Said notices shall contain the time and places of holding the election and amount of bonds proposed to be issued and the particular purpose thereof; at such election the ballots shall contain the words "Bonds, yes," or "Bonds, no." The election shall be conducted, returned and canvassed in all respects as other city or town elections. An election for such purpose shall not be held oftener than once in twelve months.

SEC. 3. If a majority of votes cast at any such election be cast for "Bonds, yes," then the city or town council shall, as soon as practicable thereafter, give notice by advertisement in some newspaper published in such city or town, and also in some newspaper published in New York city, for a period of not less than four weeks, to the effect that said city or town will sell said bonds (briefly describing them) at public auction, and stating the time when and the place where such sale will take place.

SEC. 4. The bonds authorized to be issued by this act shall be in such form as the city or town council shall direct and shall be of the denominations of five hundred and one thousand dollars. Said bonds and the coupons attached shall be signed by the mayor and the city or town clerk. Each bond at the date of its issue shall be registered by the city or town clerk. Said bonds shall be sold at not less than their par value, and shall draw interest at the rate of six per centum per annum, payable semi-annually. The money arising from the sale of such bonds shall at once be paid into the city or town treasury and applied to the construction of such sewer or sewers or other public improvements as shall be determined by the city or town council.

HeinOnline -- 1887 69 1887

SEC. 5. A tax to be fixed by ordinance shall be levied each year for the purpose of paying the interest on such bonds and to create a sinking fund for their redemption. The treasurer of such city or town shall pay in lawful money of the United States, on the first day of January next succeeding the issue of such bonds, and semi-annually thereafter on each first of January and first of July, the interest due on such bonds upon presentation at his office of the proper coupons, which shall show the amount due and the number of the bonds to which they severally belonged; but in case the holder or holders of such bonds shall give the treasurer notice in writing that he or they wish the bonds so held by them and the interest thereon to be paid in New York city, then the said bonds and coupons shall be payable in New York city, at such bank as shall be designated by the said city or town treasurer, and all bonds and coupons so paid, shall be returned to the city or town council at its next monthly meeting, and said bonds shall be cancelled in the manner provided by law for the cancellation of city or town warrants.

SEC. 6. Such bonds shall be redeemable in five years and payable in twenty years. Whenever at any time after five years from the issue of said bonds, the sum in the sinking fund shall equal or exceed one thousand dollars, and from time to time thereafter when it may occur, the said city or town treasurer shall cause a notice to be published in one newspaper published in such city or town that he will in thirty days from the date of such notice redeem said amount of bonds which then may be payable, giving the number thereof, preference being given to the oldest issue; and if at the expiration of thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation. Such notice shall be sent by mail to such bank in New York city as the treasurer has designated as the bank at which said bonds and the interest thereon will be paid.

SEC. 7. The mayor, city or town clerk and city or town treasurer of such city or town are hereby constituted and appointed commissioners of the sinking fund; and whenever there shall be one thousand dollars or over in the city or town treasury to the credit of such sinking fund, over and above the amount that may be required for the payment of interest, they shall loan the same, subject to the approval of the city or town council, due regard being had to security: and the interest received from such moneys shall be paid into such sinking fund.

SEC. 8. All acts or parts of acts and all parts of city charters heretofore granted, in conflict with this act are hereby repealed.

Approved September 14, 1887.

HeinOnline -- 1887 70 1887

CONCERNING LIENS OF MECHANICS AND OTHERS.

AN ACT to amend an act entitled an act to amend an act relating to liens of mechanics and others, approved March 9, 1887.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 2 of an act to amend an act relating to liens of mechanics and others, approved March 9, 1887, be amended to read as follows: That section 821 of said chapter be amended so as to read as follows:

SEC. 821. It shall be the duty of any person, association, co-partnership or corporation wishing to avail himself or itself of the benefits of this chapter, to file with the recorder of the county in which the building, erection, bridge, flume, canal, ditch, running claim, quartz lode, ranch, city or town lots, railroad, telegraph, telephone or electric light line, gas-pipe or water-pipe line, or other improvements, upon the lands to be charged with the lien is situated and within forty-five days after the things aforesaid have been furnished on the work or labor done or performed, a just and true account of the amount due or owing to him after allowing all credits and containing a correct description of the property to be charged with said lien verified by affidavit, but any error or mistake in the said account or description shall not effect the validity of said lien: *Provided*, The property may be identified by said description.

SEC. 2. That section 3 of an act to amend an act relating to liens of mechanics and others, approved March 9, 1887, be amended to read as follows:

SEC. 3. That section 827 of said chapter be amended so as to read as follows:

SEC. 827. That the lien given by section 820 of this chapter shall extend to the lot or land upon which any such building, improvements or structure is situated to the extent of one acre, if outside of any town or city, or within any town or city then to the extent of the whole lot or lots upon which the same is situated, if the land belonged to the person who caused said building to be constructed, altered or repaired; but if such person owned less than a fee simple estate in such land, then only his interest therein is subject to such lien; all liens for any work or labor done or material furnished upon the same premises, which shall be filed with him thirty days after the filing of the first lien on such premises, shall entitle the holders thereof to share equally *pro rata*, according to the amount of their respective liens in the proceeds arising from the sale of such premises upon the foreclosure of such liens. If, after the expiration of thirty days, other liens shall be filed against such premises, then all liens filed within sixty days after the filing of such subsequent lien shall be liens of the second class, and shall

HeinOnline -- 1887 71 1887

share *pro rata* in any proceeds arising from the sale of the said premises which may remain after all liens of the first class have been paid. The liens for work or labor done or material furnished, as specified in this chapter, shall be prior to, and have precedence over, any mortgage encumbrance or other lien made subsequent to the commencement of work on any contract for the erection of such building, structure or other improvement.

SEC. 3. That section 5 of said act be amended so as to read as follows:

SEC. 5. That section 840 of the fifth division of the revised statutes of Montana be amended to read as follows:

SEC. 840. Every person, including guardians of minors, married women, and any company, association or corporation not tenants or lessees, for whose use, benefit or enjoyment any building, structure or improvement mentioned in section one of this act shall be constructed, repaired or altered, shall be deemed the owner or proprietors thereof for the purpose of this act.

Approved September 14, 1887.

CONCERNING LICENSES.

AN ACT to amend an act entitled an act concerning licenses. Approved March 10, 1887.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of such act entitled an act concerning licenses, be amended to read as follows:

SEC. 1. There shall be levied and collected by the tax collector, a license tax as follows:

First. From each billiard, pool or bagatelle table, kept for public use, five dollars per quarter.

Second. From the manager or lessee of every theater, two dollars per day, or twenty dollars per month, and for each exhibition of opera or concert singers, minstrels, slight of hand performances, legerdemain and all other shows or exhibitions (except that amateur exhibitions and concerts for school or charitable purposes, shall not be subject to the license herein provided for) four dollars for each performance, and every circus shall pay a license of fifty dollars per day and five dollars per day for each side show.

Third. Each pawnbroker, thirty dollars per quarter.

Fourth. For each keeper of an intelligence office five dollars per quarter.

Fifth. Each professional man before practicing as such, all lawyers, dentists, physicians, surgeons, and all other professions, insurance agents and real estate agents, shall pay a license of four dol-

HeinOnline -- 1887 72 1887

lars per quarter; *Provided*, That all persons who draw any legal instrument, deed, power of attorney, or other document for which he charges a fee, when the amount of fees for such services amounts to thirty dollars per year, shall be considered a professional man.

SEC. 2. That section two of such act entitled an act concerning licenses, be amended to read as follows:

SEC. 2. All keepers of livery and feed stables, shall pay a license of fifteen dollars per quarter, and all keepers of hay yards, corrals for feeding stock or selling hay, shall pay a license of eight dollars per quarter. All omnibuses, carriages and express wagons that are run for hire or profit in any city or town of more than five hundred inhabitants, drawn by one horse shall pay two dollars and fifty cents per quarter and for each additional horse used therewith, two dollars and fifty cents per quarter; each street car company shall pay a license of twenty-five dollars per quarter.

SEC. 3. Ever merchant, butcher, or other person having a fixed place of business shall pay a license pursuant to the provisions of section three of such act entitled an act concerning licenses, but no other or further license shall be required by reason of any wagon run or used in connection with his business.

SEC. 4. Any person or persons, private associations, incorporations or company, who shall engage as a common carrier in transmitting or conveying gold dust, gold and silver coin or bullion, money or bank notes, packages or express matter or passengers from one place or another for hire or profit, shall procure a license before performing any act above enumerated and shall pay therefor as follows; Those doing business to the amount of fifty thousand dollars or over per quarter, shall pay one hundred dollars per quarter. Those doing business to the amount of forty thousand dollars and under fifty thousand dollars per quarter, shall pay seventy-five dollars per quarter. Those doing business to the amount of thirty thousand dollars and under forty thousand dollars per quarter, shall pay fifty dollars per quarter. Those doing business to the amount of twenty thousand dollars and under thirty thousand dollars per quarter, shall pay thirty-five dollars per quarter. Those doing business to the amount of ten thousand dollars and under twenty thousand dollars per quarter, shall pay twenty-five dollars per quarter, and all doing business or engaged in such transaction in any amount under ten thousand dollars per quarter, shall pay two dollars and fifty cents per quarter.

SEC. 5. That section 5 of such act entitled an act concerning licenses be amended to read as follows:

SEC. 5. All keepers of restaurants; lodging houses and hotels, shall pay a license as follows: Those doing business in the aggregate of less than two thousand dollars per quarter, shall pay two

HeinOnline -- 1887 73 1887

dollars and fifty cents per quarter, and all whose business is over two thousand dollars per quarter, shall pay two dollars and fifty cents for each additional two thousand dollars, or fractional part thereof, per quarter, and all such keepers of restaurants, lodging houses and hotels shall make at the end of each quarter a sworn statement of the total amount of their business for the quarter last preceding- *Provided*, That hotel keepers who shall transact business one mile or over from any city, town or village, shall not be required to pay the license required by this section.

SEC. 6. That section 6 of such act entitled an act concerning licenses be amended to read as follows:

SEC. 6. All persons who deal in, sell or dispose of, directly or indirectly any spirituous, alcoholic, vinous or malt liquors in any quantity less than one quart shall, before the transaction of such business, obtain a license for which he or they shall pay as follows: In all cities, towns, villages or camps, or within one mile thereof, which contain a population of thirty-five hundred or over, five hundred dollars per year; in any city, town, village or camp, or within one mile thereof, which contains a population of one thousand and under thirty-five hundred, three hundred and twenty dollars per year; in all cities, towns, villages or camps, or within one mile thereof, which contains a population of over three hundred and under one thousand, two hundred and forty dollars per year; in any city, town, village or camp, or within one mile thereof, which contains a population of less than three hundred, one hundred and eighty dollars per year, and any person disposing of any spirituous, alcoholic, vinous or malt liquors at any other place whatever, in quantities less than one quart, shall pay a license of one hundred dollars per year. And any place having a name or post office shall, for the purposes of this act be deemed to be a city, town, village or camp as the case may be.

SEC. 7. That section 7 of such act, entitled an act concerning licenses, be amended so as to read as follows:

SEC. 7. All licenses issued under the provisions of this act must be paid for in advance. All applications for license must be made to the several county treasurers, and the board of county commissioners in their several counties, shall have power to revoke the same, when it shall appear to them, that a person so licensed has been convicted for violation of any of the laws of this territory relating to gambling or the sale of liquors. Every person licensed under the provisions of this act, who shall give or sell any malt, alcoholic, spirituous or vinous liquors or any intoxicating drink to any minor, apprentice or servant under twenty-one years of age (except on order of parent or guardian), any Indian, insane or idiotic person, or habitual drunkard, or shall keep a disorderly house, shall on conviction forfeit and pay for each offense the sum

HeinOnline -- 1887 74 1887

of fifty dollars, one-half to the use of the county and one-half to the informer in any such case, and shall forfeit the license granted him.

SEC. 8. That section 8 of such act entitled an act concerning licenses be amended so as to read as follows:

SEC. 8. Every person licensed under the provisions of this act who shall intentionally or otherwise sell, or give away, or direct or permit any person or persons in his employ to sell, or give away any malt, alcoholic, spirituous and vinous liquors which shall be adulterated with strychnine, strontia, sugar of lead or other poisonous substance shall, on conviction forfeit and pay the sum of two hundred and fifty dollars for every such offence.

SEC. 9. Every distllier, manufacturer or rectifier of spirituous liquors shall pay a license of six hundred dollars per year.

SEC. 10. Every person who shall deal in, sell or dispose of any malt, alcoholic, spirituous or vinous liquors in quantities of not less than one quart in any city or town of thirty-five hundred inhabitants or over, or within one mile of the limits thereof, shall pay a license of two hundred dollars per year, and in all other cities, towns or places, or within one mile of the limits thereof, one hundred and twenty-five dollars per year. Persons so licensed, shall not permit any such malt, alcoholic, spirituous or vinous liquors to be drank upon the premises without retailer's license therefor. Any person violating the provisions of this section shall on conviction pay a fine of fifty dollars, one-half to the use of the county and one-half to the informer, and shall forfeit the license so granted to him.

SEC. 11. The provisions of this act and of such act entitled an act concerning licenses, of which this is amendatory, shall not, so far as the sale of liquors is concerned, extend to druggists who use spirituous liquors in the preparation of medicines, or for mechanical purposes only.

SEC. 12. That section 10 of such act, entitled an act concerning licenses, be amended so as to read as follows:

SEC. 10. Any person or persons or association of persons who shall keep any house or saloon, room or club-rooms where any banking game or game of chance is dealt or played for money, or anything representing money, or having money value, is used, bet, ventured or hazarded, shall, before starting such business, pay a license of one hundred dollars per quarter, and in addition thereto, such person or persons shall pay a license for each table (which table shall not exceed eight feet in length by four feet in width), on which the game commonly called "faro" is dealt or played, forty dollars per month, and such person or persons shall pay a license for each table (which shall not exceed eight feet in length by four and one-half

HeinOnline -- 1887 75 1887

feet in width) on which either of the games commonly called "percentage stud horse poker," "percentage draw poker," or "twenty-one," "high ball," "blue jay," "chuck luck," or "short faro" is dealt or played with cards, of two hundred and fifty dollars per month; and such person or persons shall pay for any room wherein the game called "keno" is played, dealt or conducted, a license of two hundred and fifty dollars per month, which shall be exclusive of all other games, and such person or persons shall pay a license for each table on which the game called "roulette" is played of two hundred and fifty dollars per month, and for each and every other banking game not mentioned in this section such person or persons shall pay a license of two hundred and fifty dollars per month, but this section shall not be construed to authorize or permit any game prohibited by the laws of this territory. Any person violating any of the provisions of this section, shall, upon conviction, be fined in any sum not less than three hundred nor more than one thousand dollars, or imprisonment in the county jail not less than thirty days nor more than six months, or both such fine and imprisonment, in the discretion of the court: *Provided*, That one-half of the fine so collected shall go to the person informing.

All licenses provided for in sections 11, 9 and 5 of this act shall be kept posted in a conspicuous place where the business named in such license is carried on.

SEC. 13. That section 19 of such act, entitled an act concerning licenses, be amended so as to read:

SEC. 19. Every traveling merchant selling or offering to sell or dispose of any gold or silver, or plated ware, or jewelry of any description, shall, before carrying on such business, pay a license of twenty-five dollars per annum in each county in which he shall do business.

SEC. 14. That section 20 of such act, entitled an act concerning licenses, be amended so as to read as follows:

SEC. 20. Licenses may be granted under the provisions of this act as follows: Licenses for the sale of liquor for not less than three months: licenses for gambling for not less than one month; all other licenses for not less than the time mentioned in the rate of assessment of such license; and licenses so issued shall not be transferable.

SEC. 15. That section 22 of such act, entitled an act concerning licenses, be amended to read as follows:

SEC. 22. Each telephone company doing business in this territory shall pay a license of fifty cents per annum on each instrument in use; and each telegraph company shall pay a license of one dollar per annum on each set of instruments in use.

HeinOnline -- 1887 76 1887

SEC. 16. That section 23 of such act entitled, an act concerning licenses, be amended so as to read as follows;

SEC. 23. All gas companies shall pay a license of twenty-five dollars per quarter, and all electric light companies shall pay a license of ten dollars per quarter.

SEC. 17. That section 24 of such act, entitled an act concerning licenses, be amended so as to read as follows:

SEC. 24. That all moneys collected for county license taxes in the several counties of this territory, under the provisions of this act, shall be paid into the county treasury of the county wherein collected, and seventy-five per cent of the amounts so collected shall be retained in the county treasury for the use of such county, and the remaining twenty-five per cent shall be paid over by the county treasurer to the territorial treasurer for the use of the territory.

SEC. 18. That section 18 of such act, entitled an act concerning licenses, be and the same is hereby repealed.

Approved September 14, 1887.

RELATING TO MOTIONS FOR NEW TRIAL.

AN ACT relating to motions for new trial.

Be it enacted by the Legislative Assembly of tha Territory of Montana:

SECTION 1. That all motions for new trial may be heard and determined by the judge of the district court wherein the same are pending at chambers as well as in open court.

SEC. 2. That no such motion for a new trial shall be so heard in any other than the county where the same is pending, except by consent, and not in such county except on five days' notice thereof, by the party desiring to bring the same to a hearing, personally served upon the attorney of the adverse party, if he have one, if not, then upon such adverse party.

Approved September 14, 1887.

DISTURBANCE OF THE PEACE.

AN ACT to define disturbance of the peace.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. If any person shall wilfully and maliciously disturb the peace or quiet of any neighborhood or family by loud or unusual noises, or by tumultuous and offensive conduct, threatening,

HeinOnline -- 1887 77 1887

traducing, quarreling, challenging to fight or fighting; or if any person shall upon premises owned or used and occupied by any racing or fair association wilfully and maliciously make any loud or unusual noises or conduct himself tumultuously or offensively, or threaten, traduce, quarrel, challenge to fight or fight, every person convicted thereof shall be fined in a sum not exceeding one hundred dollars or imprisonment in the county jail not exceeding two months, or both such fine and imprisonment, in the discretion of the court.

SEC. 2 All acts and parts of acts in conflict herewith are hereby repealed.

Approved September 8, 1887.

PUNISHMENT FOR INTERFERENCE WITH RAILROAD TRACKS.

AN ACT to punish interference with railroad tracks.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That any person or persons who shall hereafter wilfully and maliciously break, tear up, derail, obstruct, or in any manner interfere with any railroad track in this territory being operated for the transportation of freight or passengers, or who shall cut, burn, damage or destroy any bridge, trestle, or culvert upon the line of such railroad, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by imprisosment in the penitentiary for a term of not less than five years, which punishment may be extended for life.

SEC. 2. That any person or persons who shall hereafter wilfutly and maliciously break, tear up, derail, obstruct, or in any manner interfere with any railroad track or switch or any other part or appliance of any operated railroad and used in the operation thereof in this territory, and by reason thereof shall cause the death of any person whatsoever, shall be deemed guilty of murder in the first degree, and, shall upon conviction thereof, be punished by death, as provided in other cases of murder in the first degree by the laws of this territory.

SEC. 3. That nothing in this act contained shall affect or excuse any act of the nature herein defined already committed, but in all such cases the person or persons having committed any of the offences herein defined shall and may be prosecuted under the existing laws of this territory as if this act had not been passed, and nothing in this act contained shall be construed to affect the punishmen of any such offence under existing laws of this territory, but in all such cases any such offence shall be prosecuted and punished under existing laws of this territory.

Approved September 8, 1887.

HeinOnline -- 1887 78 1887

CREATING A SCHOOL TEXT BOOK COMMISSION.

AN ACT to create a School Text Book Commission.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. There is hereby created a commission to be known as the school text book commission. Said commission shall consist of the territorial superintendent of public instruction and two other persons, one of whom shall be a practical teacher, to be appointed by the governor, by and with the advice and consent of the legislative council. They shall hold office until the end of the session of the next legislative assembly.

SEC. 2. It shall be the duty of the school text book commission, during the ensuing year, to carefully examine the school text books now in use and to report to the next legislature what changes, if any, shall be made in the present series, with their reasons in full therefor, and in case any changes are recommended, the terms on which the books recommended can be obtained, and such other information as in ther judgment may be useful to the legislature.

SEC. 3. It shall be the duty of the territorial superintendent of public instruction, in behalf of the commission, to correspond with firms known as school book publishers, inviting them to send samples of school text books, with prices at which they will be supplied at wholesale. The members of the commission shall be repaid their actual expenses in traveling to and from the capital of the territory, on or before the assembly of the next legislative assembly for the purpose of making the report contemplated in the second section of this act, and shall also be paid five dollars per day while engaged in preparing said report: *Provided*, That not more than three days' time shall be thus employed and paid for.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved September 13, 1887.

TO SUPPRESS AND PREVENT SCAB AND INFECTIOUS DISEASES AMONG SHEEP.

AN ACT to amend an act entitled "An act to suppress and prevent dissemination of scab and infectious diseases among sheep," approved March 10, 1887.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 2 of an act entitled an act to suppress and prevent dissemination of scab and infectious diseases among sheep, approved March 10, 1887, be amended to read as follows:

SEC. 2. Hereafter it shall be the duty each year of the county commissioners of the several counties of this territory to levy a

HeinOnline -- 1887 79 1887

special tax of one and one-half mills on the dollar on the assessed valuation of all the sheep in their counties, to be known as a sheep inspector and indemnity fund; said tax shall be levied and collected by the several counties and paid to the territorial treasurer in the same manner as is provided by law for the levy and collection of other taxes; such fund shall constitute the sheep inspector and indemnity fund, to be used in the payment of the salaries and expenses of such skilled assistants as the veterinary surgeon may employ, as provided for in section 9 of this act.

SEC. 2. That section 3 be amended to read as follows:

SEC. 3. Upon receipt of information in writing over the signature of the president or secretary and not less than two members of the executive committee of any regularly organized territorial district or county wool-growers' association, that any sheep are infected with scab or any infectious diseases, or have recently been herded upon the range of, or occupied corrals which have within the past ninety days been used or occupied by any diseased or infected sheep, such notice shall be *prima facie* evidence that such disease exists, and the territorial veterinary surgeon or his deputy shall immediately cause the diseased sheep and all sheep running in the same flock with them to be examined, and if found so diseased, to be quarantined and held within a certain limit or place to be defined by him, and such sheep shall be held in quarantine until the owner or person in charge shall have eradicated such scab or infectious disease effectually. The expense of feeding, holding, dipping, marking, and taking care of all sheep quarantined under the provisions of this act shall be paid by the owner, agent or person in charge of such sheep.

SEC. 3. That section 4 be amended to read as follows:

SEC. 4. It shall be the duty of the veterinary surgeon or his deputy surgeon to inspect all sheep of which he may receive notice as provided in section three of this act, and in case the same be not diseased he shall make a certificate stating such fact. But if the sheep are diseased, or have been herded upon the range of or in corrals which have within the past ninety days been used or occupied by any diseased or infected sheep, the regulations for their quarantine, holding and keeping shall at once be made. The veterinary surgeon and his deputy or deputies shall have power to superintend the preparation and mixture of materials and the dipping of sheep held under quarantine, and shall cause all sheep quarantined to be distinctly marked.

SEC. 4. That section 7 be amended to read as follows:

SEC. 7. It shall be the duty of any person or persons who shall have or suspect that there is upon his or their premises, or upon the public domain in their vicinity, any cases of scab, contagious or

HeinOnline -- 1887 80 1887

infectious disease among sheep, or any sheep that have recently been herded upon the range of, or have occupied the corrals, that within ninety days prior thereto have been occupied by diseased sheep, to immediately report the same to the territorial veterinary surgeon, and failure to do so, or any attempt to conceal the existence of such scab or infectious disease, or wilfully or maliciously obstruct or resist the veterinary surgeon in the discharge of his duty as hereinbefore set forth, shall be deemed a misdemeanor, and any person or persons who shall be convicted of so obstructing or resisting said veterinarian, shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense.

SEC. 5. That section nine be amended to read as follows:

SEC. 9. The territorial vetrinary surgeon for the purpose of carrying into effect the provisions of this act is hereby authorized and directed to employ such deputies and skilled assistants as he may require, not to exceed one in each county, at any time, and said deputy or skilled assistant, shall receive, upon the certificate of the vetrinary surgeon, the sum of five dollars for each day necessarily employed, and when required to go outside of their counties they shall receive in addition, their actual and necessary traveling expenses, to be paid out of the territorial treasury from said sheep inspector and indemnity fund, as other money is paid; *Provided*, That several counties may be included into one district and assigned by the vetrinary surgeon to such deputies or skilled assistants as he may designate; *And provided further*, That at any time the vetrinary surgeon or his deputy or skilled assistants, shall have knowledge that any sheep infected with scab or infectious diseases, or sheep that have been herded upon the range of or have occupied corrals that were recently used or occupied by diseased or infected sheep or sheep that have recently been brought from such districts, as have been scheduled by proclamation of the governor, are being driven upon a highway or over the range being occupied by any other sheep contrary to the provisions of this act, it shall be his duty to at once quarantine such sheep.

SEC. 6. The provisions of this act shall not apply to the counties of Beaverhead, Missoula and Deer Lodge.

SEC.. 7. This act shall take effect and be in force from and after its passage.

Approved September 14, 1887.

—6

HeinOnline -- 1887 81 1887

CONCERNING THE APPOINTMENT OF STENOGRAPHERS. BY THE DISTRICT COURTS.

AN ACT to amend an act authorizing the appointment of stenographers by the district courts, approved March 10, 1887.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. That sections 4 and 5 of an act entitled "An act authorizing the appointment of stenographers by the district courts," approved March 10, 1887, be and the same is amended so as to read as follows:

SEC. 4. Every stenographer appointed under the provisions of this act shall receive an annual salary of fifteen hundred dollars and no other compensation, except as hereinafter provided, payable in quarterly installments out of the contingent funds of the counties comprising the district for which he is appointed, according and in proportion to the number of suits entered and commenced in the district courts for such counties respectively the preceding year, and it shall be the duty of the judge of such district, on the first of January of each year, or as soon thereafter as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The stenographers shall be allowed in addition to the salary above provided, five cents per folio for each copy of testimony furnished to parties in civil cases, to be paid for by the party desiring the same.

SEC. 5. The said stenopraphers, during the trial of any action or proceeding, shall write down in stenographers' notes all objections and exceptions taken, and thereafter a transcript of such notes, or so much thereof as may be pertinent to the point of such objection and exceptions, may be embodied in a bill of exceptions and signed by the judge at any time during the same term of court, or within ten days thereafter, on notice to the attorney of the adverse party, if he have one, otherwise to such adverse party; and an exception so noted by the stenographers and thereafter embodied in a statement of the case on the minutes of the court, shall be a good exception for all purposes in all cases, civil or criminal.

Approved September 14, 1887.

CONCERNING THE LEVY OF TAXES AND ASSESSSMENT OF PROPERTY.

AN ACT to provide for the levy of taxes and assessment of property.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. There shall be levied annually by the board of county commissioners of each county in this territory, and collected by the county treasurer of such county, an ad valorem tax on each

HeinOnline -- 1887 82 1887

dollar of assessed valuation of all property subject to taxation in such county, for territorial purposes, two mills; for county purposes, any sum not exceeding sixteen mills; for school purposes, not less than two nor more than five mills; for the benefit of the poor, not less than one nor more than five mills. Before the final adjournment of the board of county commissioners of each county, convened as a board of equalization as provided in this act, said board shall proceed to levy the requisite taxes for the current year. Such tax levy shall be based upon the amount of property in the county as returned by the assessor and an itemized statement of the county expenses for the current year; and such levy when made shall be entered on the record of the proceedings of the county commissioners. In addition to the taxes required to be levied by the provisions of this article, there shall be levied by the board of county commissioners of each county, at the same time the ad valorem tax is levied by them, a tax of two dollars upon each male inhabitant of this territory over the age of twenty-one years. Such tax shall be denominated a poor tax, and the money collected thereon shall be set apart by the board of county commissioners as a fund exclusively for the support and maintenance of the poor of each county: *Provided*, The board of county commissioners may at their discretion remit said tax in any or all cases wherein by reason of age or bodily infirmity the person is unabe to pay the same.

SEC. 2. Every tax levied under the provisions of this act is hereby made a lien against any and all the property assessed, and such lien shall attach at the time of such assessment and shall not be satisfied or removed until such taxes are paid.

SEC. 3. All property of every kind and nature in this territory on the first day of January of each year, or which shall arrive or be found in this territory before the last day of December ensuing, shall be subject to taxation, except:

First. All lands and lots of ground, with buildings, improvements, and structures thereon belonging to the territory, and all lands and property belonging to the United States or to this territory or any municipal corporation or to any county of the territory.

Second. Court houses, jails, town halls, houses occupied by fire and military companies and their apparatus, and other public structures and offices, and all squares and lots kept open for health or public uses or for ornament, belonging to any county, city, town or village in this territory, public libraries, colleges, school houses and other buildings for the purposes of education, with their furniture, libraries and all other equipments and lots of land thereto appurtenant and used therewith, so long as the same shall be used for that purpose: *Provided*, That when any of the property mentioned in this subdivision, is private property, from which a rent or other

HeinOnline -- 1887 83 1887

valuable consideration is received for its uses, the same shall be taxed as other property.

Third, Public asylums, hospitals, poor houses, and other charitable or benevolent institutions for the relief of the indigent or afflicted, and the lots or lands thereto apurtenant, with all their furniture and equipments; all grounds and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only, and without pecuniary gain.

Fourth. Churches, chapels and equipments, and the lots of ground appurtenant thereto and therewith, not exceeding in value ten thousand dollars; *Provided*, Rent is not paid for such ground so long as the same is used for that purpose only without yielding rent. Cemetaries and grave yards set apart and used for interring the dead.

Fifth. The property of widows or orphan children, not to exceed the amount of one thousand dollars to any one family.

Sixth. Growing crops.

Seventh. Mines and mining claims, except those held under a patent from the United States, the suface of which shall be taxed according to its value as other real estate; *Provided*, That all machinery used in mining claims, and all property and improvements appurtenant to or upon mining claims, which have an independent and separate value, shall be subject to taxation. Tools of mechanics, farming tools of husbandmen, all libraries of professional men and private citizens, household furniture of families or householders, which do not exceed in value the sum of two hundred and fifty dollars.

SECTION 4. All other property, real or personal, within the territory, is subject to taxation in the manner herein directed, and this is intended to embrace improvements on lands and lots in towns, including land bought from the United States, whether patent has been actually issued therefor or not, and from this territory, whether bought on credit or otherwise, being franchises which for the purposes of this chapter are to be considered real property: ditches and flumes, hoses, oxen and other cattle, except calves under eight months old, which shall be exempt from taxation, mules and asses, sheep, swine and goats, money, in coin or gold dust, whether in possession or on deposit, and including bank bills; property or labor due from solvent debtors on contract or on judgment, whether in this territory or not, mortages and other like securities, stocks or shares in any bank or company, incorporated or otherwise, and whether incorporated by this or any other territory or state, or whether situated in this territory or not, except that where the entire capital stock of any incorporated company shall be invested in assessable property in the territory of Montana, such cap-

HeinOnline -- 1887 84 1887

ital stock shall not be taxed; public stock or lands, household furniture not otherwise exempt, including gold and silver plate, musical instruments, watches and jewelry, pleasure carriages, stages, hacks, and other vehicles for transporting passengers; wagons, carts, drays, sleds, and other descriptions of vehicles or carriages; boats and vessels of every description, whenever registered or licensed, and whether navigating the waters of this territory or not, if owned either in whole or in part by persons who are inhabitants of this territory; annuities, but not including pensions from the United States or any of the states.

SEC. 5. Every inhabitant of this territory, of full age and sound mind, shall list all property subject to taxation in this territory of which he is the owner or has the control or management, in the manner hereinafter directed; but the property of a minor or insane person is to be listed by his guardian, or if he have no guardian, then by his father, if living, if not, then by his mother, if living; if not, then by the person having the property in charge; if a married woman, by her husband, but if he be unable or refuse, then by herself; if a beneficiary for whom property is held in trust, by the trustee; and if the personal property of a decedent, by the executor; of a body corporate, company, society or partnership, by its principal accounting officer, agent or a partner. Property under mortgage or a lease is to be listed by and taxed to the mortgagee or lessee, unless it be listed by the mortgagor or lessor; and in all cases said property shall be listed in the name of the owner.

SEC. 6. All personal property shall be listed, assessed and taxed in the county where the same may be found, unless the owner or agent produce a receipt or certificate from the tax collector or assessor, showing that he has paid tax or been assessed for taxation on said property in some other county of the territory for the same year: *Provided*, That all goods, wares and merchandise in transit to or belonging to or consigned to a resident of this territory, shall not be assessed or taxed until such goods, wares or merchandise shall reach its destination or place of consignment: *And provided further*, That all live stock belonging to any permanent resident or residents of this territory shall not be assessed nor taxed in transit, nor until it arrives in the county in which said person or persons reside, unless such live stock belonging to any permanent resident or residents be turned out to run at large in some other county off the range of such permanent resident or residents.

SEC. 7. All persons required to list property in behalf of another shall list in the same county in which he would be required if it were his own, except as herein otherwise directed, but he must list it separately from his own, naming the person or estate to whom or to which it belongs, but the undivided property of a person deceased belonging to his heirs with or without naming the several heirs.

HeinOnline -- 1887 85 1887

SEC. 8. The property of corporations or companies constructing bridges, canals, ditches, flumes, railways, plank roads, grading roads, turnpike roads, telegraph and telephone lines and similar improvements, shall be assessed to each corporation or company and their interests are to be taxed in this territory in the county or localities in which such bridges, canals, flumes, railways, plank roads, grading roads, turnpike roads, telegraph lines and similar improvements may be in, and to the extent of such improvements as may be found to be in the county or counties in which the same may be situated, and to this end the assessor is directed to require the secretary or clerk or whatever officer of corresponding duties there may be, to render under oath a list of the number of miles and value of such improvements as may be in each separate county through which the same may be constructed, or in which the same may be situated.

SEC. 9. All taxable property is to be listed and valued each year, and shall be assessed at its true value in money at private sale, having regard to its quality, locality, natural advantages, the general improvement in the vicinity, and all other elements of its value.

SEC. 10. Depreciated notes, or stocks, or shares in corporations or companies, and credits and annuities, shall be assessed at their cash value.

SEC. 11. The term credit includes every claim or demand for money, labor or other valuable thing, and every annuity or sum of money receivable at stated periods and all money in property of any kind, except pensions from the United States or any of the states. In making up the amount of credits which any person is required to list, he will be entitled to deduct from the gross amount the amount of all *bona fide* debts owing by him, but no acknowledgement of indebtedness, not founded on actual consideration and no such acknowledgement, made for the purpose of being so deducted shall be considered a debt within the intent of this section: and no person shall be entitled to a deduction on account of an obligation of any kind given to an insurance company for the premium of insurance, nor on account of any unpaid subscription to any institution or society, nor on account of a subscription to or installment payable on the capital stock of any company or incorporation; and no liability of any person or persons as surety for another shall be deducted: and no deduction shall be made in any case unless the party claiming such deduction, shall disclose to the assessor under oath, the name or names of the person or persons to whom such party is indebted, and the amount of such indebtedness to each, and also that such indebtedness is not barred by the statute of limitations.

SEC. 12. The stockholders of every bank within this territory, whether such bank has been organized under the banking laws of

HeinOnline -- 1887 86 1887

this territory or of the United States, shall be assessed and taxed on the value of their shares of stock therein, in the county, town, district, city or village where such bank or banking association is located and not elsewhere, whether such stockholders reside in such place or not; such shares shall be listed and assessed annually, with regard to the ownership and value thereof, on the first day of June of each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every such bank shall furnish a statement to the assessor verified by oath, showing the amount and number of such shares of the capital stock of such bank, the amount of its surplus or reserve fund, and the amount of its legally authorized investments in real estate, which real estate shall be assessed and taxed as other real estate is assessed and taxed under this act. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The shares of capital stock of national banks not located in this territory, held in this territory, shall not be required to be listed under this act, and the accounting officers of every bank, whose capital is not represented by shares of stock, and every private banker, broker or stock jobber shall make out and deliver to the assessor, when required to list personal property, a statement, which he shall verify by oath, showing,

First. The amount of money on hand or in transit.

Second. The amount of funds in the hands of other banks, brokers or others subject to draft.

Third. The amount of checks or cash items, the amonnt thereof not being included in either of the preceding items.

Fourth. The amount of bills receivable, discounted or purchased, and other credits due or to become due, and accounts receivable.

Fifth. The amount of bonds and stocks of every kind, except United States bonds, and shares of capital stock of joint stock or other companies or corporations, held as investment, or in any way representing assets.

Sixth. All other property appertaining to said business, other than real estate, which real estate shall be listed and assessed as other real estate is listed and assessed under this act.

Seventh. The amount of all deposits made with them by other parties.

Eighth. The amount of all accounts payable other than current

HeinOnline -- 1887 87 1887

deposit accounts. The amount of the seventh item shall be deducted from the aggregate amount of the first, second and third items, and the remainder, if any, shall be listed as money and credits, as provided in this act. The amount of the eighth item shall be deducted from the amount of the fourth item, and the remainder, if any, shall be listed as credits. The amount of the fifth item shall be listed as bonds and stocks, and the sixth item shall be listed the same as other similar personal property is listed under this act.

SEC. 13. The county clerk of each county in this territory, shall enter or cause to be entered, in a book to be provided at the expense of the county, and known as the "real property assesment book," lists of all lands in his county subject to taxation, showing the names of the owners, if known. If the name of the owner be unknown, it shall be so stated opposite the description of each tract, lot or parcel of land, by township, range, section and subdivisions thereof, or numbers. And in case of city or town lots, by numbers of lots, or subdivisions thereof, and blocks so far as ascertainable, and in case of desert land claims and entries of mineral lands, located upon unsurveyed tracts, and upon which final proof has been made. when listed by the numbers, or description used in describing the same for the purpose of filing an entry at the land office, shall be a good and sufficient description, and for the purpose of completeness and accuracy, the county clerk shall compare such lists with the records, maps and plats in his office. Said book shall be annually, on or before the first day of February delivered to the county assessor, for his guidance in the listing and valuation of real estate in his county, for the purpose of preparing the said real property assessment book. The county commissioners of the several counties in this territory are hereby authorized to employ such assistance to the county clerk as may be necessary, and such assistance shall be devoted to that purpose only, and the compensation therefor shall not exceed one hundred dollars per month, while acually engaged therein, to be paid by warrant on the contingent fund of the county.

SEC. 14. The assessor of each county shall assess and value all property required by the provisions of this act to be assessed and valued, and between the first day of February and the first Monday of August in each year shall demand of each taxpaper in his county a list, as hereinafter provided, of his, her, or their property; and if the said list be not rendered, under oath at the time such demand be made, the assessor shall proceed to list and assess the property of any such taxpayer, according to his best knowledge and information, and shall add twenty per cent to the value thereof: *Provided*, That upon all personal property when the owner has not sufficient real property which is not exempt from taxation to pay the taxes which would be levied against the per-

HeinOnline -- 1887 88 1887

sonal property of such owner, the assessor shall report his assessment forthwith to the tax collector of the county, and if there be danger that any of such property will be removed from the county, the assessor shall have power, and it shall be his duty to seize a sufficient amount of property to pay the taxes and costs. He shall forthwith report such seizure to the tax collector of the county, who shall hold the property seized until such taxes are paid. It shall be the duty of the tax collector, immediately on the receipt of the assessment against any personal property mentioned in this section, to levy the tax thereon; and if the tax levied be not paid within ten days from the time the assessment was made, he shall proceed to sell the property seized by the assessor, and shall seize and sell other personal property on which taxes have been levied by the provisions of this section, and shall sell the same in the manner provided for the sale of personal property on execution.

SEC. 15. It shall be the duty of the assessor to proceed to assess all property that may come into his county, or which he may have failed to assess at any time during the year.

SEC. 16. The list shall contain,

First. His. her, or their lands, to be designated by subdivision township, range, section, and any division or part of section, and where such part is not a government division or subdivision, then some other description to identify it; and his town lots naming the town in which they are situated, and their proper description by number and blocks, or otherwise, according to the system of numbering in the town.

Second. His, her, or their personal property employed in merchandise, amount of capital employed in manufactories, number of horses, number of mules and asses, number of sheep, number of oxen, number of cows and calves, number of swine, number of goats, number of carriages of every description, amount of money and credits, number of watches, number of pieces of jewelry and gold and silver plate, number and kind of musical instruments, amount of taxable household furniture, amount in stocks or shares in any corporation or company, and amount of all other taxable property not enumerated.

SEC. 17. Before proceeding to assess any property under the provisions of this act, it is hereby made the duty of the assessor to administer to the person about to be assessed the following oath or affirmation, to be subscribed by such person: "I do solemnly swear that I will well and truly answer all questions in the following list, and that it embraces all moneys, goods, live stock credits, and all other property, of any description whatever, owned or held by me, as principal partner, agent or representative, as the case may be, and that the value, as therein stated, is the true value according to my best knowledge, so help me God." Signed.

HeinOnline -- 1887 89 1887

What is your post office address?

How many acres of land do you own?

Where situated? State description and value thereof.

What are the improvements on the same and value thereof?

How many town lots do you own in said county?

State where situate and value thereof?

What are the improvements on the same and value thereof?

What amount of merchandise do you own in said county?

What amount of capital have you invested or employed in manufactures?

Where are such manufactories situate and value thereof?

How many horses do you own?

Where are they kept and value thereof?

How many mules and asses do you own and value thereof?

How many sheep do you own and value thereof?

Where are they kept?

How many oxen and unbroken steers over two years old do you own?

How many bulls do you own?

Where are these cattle kept and value thereof?

How many hogs do you own and value?

How many goats do you own and value?

How many wagons or carriages of any description do you own and value thereof?

How much money do you own?

What amount of credits of any kind do you own?

How many watches do you or any member of your family own, and value thereof?

How many pieces of jewelry do you or any member of your family own and value thereof?

How many pieces of gold or silver plate do you or any member of your family own and value thereof?

How many musical instruments do you or any member of your family own and value thereof?

HeinOnline -- 1887 90 1887

How much taxable household furniture do you own?

What amount of stocks or shares in any corporation or company do you own?

Have you any of the above list of articles in your charge as agent or representative? If so, how much?

Have you any other property than that above mentioned?

If so, enumerate it and state value. And the assessor shall attach his certificate to such list so made, certifying that the person making such list put down the answer to each qnestion propounded in said list, or directed the assessor to do so for him, and shall certify the true date of such assessment.

SEC. 18. On or before the first Monday of September, annually, the assessor shall make out and deliver to the county clerk an assessment roll, containing in tabular form and in alphabetical order the names of the persons and bodies in whose names property has been listed in his county with the several species of property and the value as hereinbefore indicated, with the columns of numbers and value footed; and in a column to be provided for that purpose, he shall write the words, "by the assessor," where the list was made by himself, together with the words "absent" or "sick," or the words "refused to list," or "refused to swear," or such other words as will express the cause why the person refused to make the list, did not make it, and neglect shall be taken as a refusal.

SEC. 19. The assessor shall take and subscribe an oath, to be certified by the officer administering it, and attach it to the assessment roll, which oath is to be in substance as follows: "I, C. D. assessor of ———— county, do solemnly swear that the value of all property, money and credits, of which a statement has been made, and verified by the person required to list the same, is herein truly returned as set forth in such statement; that in every case where I have been required to ascertain the amount or value of property of any person or body, I have diligently and by tne best means in my power endeavored to ascertain the true amount and value, and that as I verily believe, the full value thereof is set forth in the annexed, and that in no case have I knowingly omitted to demand of any person of whom I was required by law to list on or in any way connived at any violation or evasion of any of the requirements of the law in relation to the assessment of property for taxation. So help me God."

SEC. 20. Any assessor failing to comply with the requirements of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding five hundred dollars, or be imprisoned in the county jail for a period not exceeding three months, or by both such fine and imprisonment.

HeinOnline -- 1887 91 1887

SEC. 21. The board of county commissioners of each county shall provide the assessor with suitable blank forms for assessment, and such instructions as to insure full and uniform assessment and returns.

SEC. 22. The board of county commissioners of each county shall constitute a board for the correction of the assessment roll and the equalization of assessed value of property, and on the third Monday in the month of September, of each year, said board shall meet at the office of the county clerk, at the county-seat, and may adjourn from time to time as deemed necessary. Public notice of the time and place of the meeting of said board shall be given by the county clerk by publication for at least two successive weeks, in a newspaper published in said county, if there be one, otherwise by notices posted in five public places immediately prior to the meeting of said board of equalization; but no notice of an adjourned meeting of said board shall be required. Any person feeling aggrieved by any valuation, or amount of property listed, or by any other fact appearing on such assessment, may apply to such board for the correction thereof, and if, in the opinion of said board, any valuation is too high or too low, as compared with other valuations, by the assessor, of similar classes of property, it may equalize the same; but if such equalization results in any increase, the party affected thereby shall be given reasonable notice of the intention to increase such valuation, with opportunity to appear, which notice may be sent by mail, with postage thereon prepaid. If any person returned as refusing to render a list or to be sworn thereto, can show good cause therefor, the penalty provided may be remitted.

SEC. 23. The county clerk shall make out a tax list in tabular form, and in alphabetical order, which tax list shall be made within twenty days after the returns of the assessor, having in a distinct column by itself the amount of each different tax and having one or more columns for all delinquent taxes; but instead of a column for the amount of personal property, the word "personal" may be written across the column after the name and amount are carried into the column of value. Such list may be in the following form:

Names of owners.	Part of section.	Section.	Township.	Range.	Acres.	Name of town.	Lots.	Block.	Value.	County tax.	Territorial tax.	School tax.	Road tax.

SEC. 24. An entry is required to be made upon the tax list showing what it is, and for what county and the year it is; and the county clerk shall attach to the list his warrant, under his hand and official seal, in general terms, requiring the treasurer to collect the

HeinOnline -- 1887 92 1887

tax therein levied according to law, and no informality in the above requirements shall render any proceedings for the collection of taxes illegal, and such list shall be full and sufficient authority for the treasurer to collect all taxes contained therein.

SEC. 25. Immediately after the assessment roll is corrected, the county clerk shall make out an abstract thereof, containing the whole amount of each species of property, and the value of the same, together with the total valuation of all property assessed, which abstract said clerk shall transmit forthwith to the auditor of the territory.

SEC. 26. If, on the assessment roll, or on the tax list, there be an error in the name of a person taxed, the name may be changed, and the tax collected from the person intended, if he be taxable and can be identified by the tax collector or assessor.

SEC. 27. The treasurer shall within twenty days from the time he shall receive the assessment roll from the clerk, direct to each taxpayer of his county, a written or printed notice of the amount of tax due from such taxpayer and the time the same becomes due. Such notice shall be directed to the nearest post office to which said taxpayer resides. Printed blanks for said notices and postage stamps for the same shall be furnished said treasurer by the board of county commissioners. No other demand for taxes shall be necessary, but it shall be the duty of every person owing taxes to pay the same to the treasurer of the county at his office, and if any such taxpayer shall fail or refuse to pay the taxes assessed against him, on or before the last day of November following the levy thereof, ten (10) per cent of such taxes shall be added thereto, and collected as a portion of said taxes, and it shall be the duty of the tax collector immediatly after the first day of December, to seize any personal property belonging to or which may have been assessed to any taxpayer who shall then be delinquent, and sell the same as provided by law. But it shall be his duty at any time when there shall appear to be danger of the removal of property on which taxes are unpaid from the county, to seize and sell a sufficient amount of the same to satisfy the taxes thereon, together with the costs of seizure and sale: *Provided*, That if any taxpayer, against whom any tax may be levied, shall remove or attempt to remove his property from the county where such tax was levied, the treasurer of such county shall sue for and collect such tax in the name of the county in the manner provided by law for the collection of debts.

SEC. 28. In cases where sufficient personal property liable to seizure, cannot be found to pay the tax assessed against any person or company, the treasurer may sue for and collect such tax by attachment, garnishment or otherwise.

SEC. 29. All lands and lots, and all buildings, fixtures, and im-

HeinOnline -- 1887 93 1887

provements thereon, and all the interest or title which any person or persons, owning or claiming any such improvements, may have in the land upon whch the same are made, on which the taxes shall not have been paid before the first day of December of each year, shall be subject to sale as provided by law for the sale of land for taxes.

SEC. 30. The county treasurers shall, on or before the fifteenth day of January in each year, make out and publish a list of all lands and town lots subject to sale, describing such lands and town lots as the same are described on the tax roll, with an accompanying notice stating that so much of each tract of land or town lot described in said list as may be necessary for that purpose, will on a day specified thereafter, and the next succeeding days, be sold by him at public auction, at the county treasurer's office for the taxes and charges thereon: *Provided*, However, that if such list should not be made until after the fifteenth day of January, the sale thereunder shall not be void, but the treasurer shall be liable for twenty-five dollars for each day said list is not made out after said date. Such notices may be in the following form: ....treasurer's office,....county of....territory of Montana.

To all persons, companies or corporations who have or claim any estate, right, or title, or interest in, or claim to or lien upon any of the several pieces or parcels of land in the list hereto attached, take notice that I will, according to law, offer at public sale at the office of the treasurer of the county of ..... and the territory of Montana, on the .... day of ....., ... 18 ...., and succeeding days, commencing at the hour of ... o'clock, A. M. of said day, the following described real estate, situate in said county, on which the taxes for the year (or years) 18.. have not been paid, to pay said taxes, interest and penalties, to-wit: (Here follow with a description of each parcel of land as the same appears in the tax roll. Stating also the total tax due on each parcel, after adding penalty and costs of advertising.)

SEC. 31. The treasurer shall give notice of the sale of real property by the publication thereof, once a week for four weeks, in a newspaper in his county, published in the English language, the first of which publication shall be at least four weeks before the sale, and by a written or printed notice posted in a conspicuous place on or near the outer door of the office or building commonly used as the office of the treasurer, for not less than four weeks before the sale, but if there be no newspaper published in the county, then like notice shall be given by posting one written or printed notice in each of five of the most public places of the county, and one on or near the door of the treasurer's office, as above provided.

SEC. 32. It shall be the duty of the treasurer of the county, be-

HeinOnline -- 1887 94 1887

fore making sale of any lots or land for unpaid taxes, as provided in this act, to carefully examine and prepare the delinquent list with the abstract of assessment roll and plat books in the office of the county clerk, and to omit from such sale all lots and lands doubly or erroneously assessed, so far as he is able to ascertain the same, and to make an itemized report to the board of county commissioners of his county, showing such double or erroneous assessment, and the board of county commissioners, on receipt of such itemized report, shall, by resolution to be entered in the proceedings, abate the taxes levied by such double or erroneous assessments. The territorial auditor shall allow to each county the amount of territorial tax that may have been from time to time refunded to the taxpayer as double or erroneous assessments, or refunded to the purchaser of real estate erroneously sold.

SEC. 33. Every printer who shall publish such list and notice shall, immediately after the last publication thereof, transmit to the treasurer of the proper county an affidavit of such publication and five copies of such newspaper made by such person, to whom the fact of publication shall be known; and no printer shall be paid for such publication who shall fail to transmit such affidavit within fourteen days after the last publication. Such affidavit may be substantially in the following form, to-wit:

I, A. B., publisher (or printer) of the..... a newspaper printed and published in the county of....., and territory of Montana, do hereby certify that the foregoing notice and lists were published in said newspaper once in each week for.....successive weeks, the last of which publications was made on the..... day of .....A. D. 18.., and that copies of each number of said paper in which said notice and list were published were delivered by carrier or transmitted by mail to each of the subscribers of said paper according to the accustomed mode of business in this office ..... A. B., publisher or printer of the.....

Territory of Montana, } ss.
.....County, }

The above certificate of publication was subscribed and sworn to before me by the above named A.... B...., who is personally known to me to be the identical person described in the above certificate, on the .... day of ...., A. D. 18.. ....Seal....C.... D....

The county treasurer shall also make, or cause to be made, an affidavit of the posting of such list and notice as above required, all of which affidavits shall be deposited by him with the county clerk, to be then carefully filed and preserved.

SEC. 34. A penalty of ten per centum upon the amount of all taxes due upon lands advertised shall be added by the treasurer immediately before advertising real estate for sale, and shall be

HeinOnline -- 1887 95 1887

collected by him in all cases, and such penalty so collected shall be credited to the general fund of the county by the treasurer.

SEC. 35. When the last publication shall have been made or notices posted for the length of time and in the manner required in this act, the notice shall be deemed to have been served and the treasurer to have acquired full and complete jurisdiction to enforce against each piece or parcel of land in said published list described, the taxes accrued, penalties, and costs upon it then delinquent, so as to bind every estate, right and title, interest, claim, or lien in law or equity, in or on such piece or parcel of land of every person, company or corporation.

SEC. 36. On the day mentioned in the notice of sale the treasurer is directed to offer at public sale, at the treasurer's office, in his county, between the hours of 9 o'clock in the forenoon [and 5 o'clock in the afternoon], all lands on which the taxes levied the preceding year, or any preceding year, still remains unpaid, and continue to offer said lands for sale, and sell the same as provided by law, from day to day, for the period of twenty days, Sundays and legal holidays excepted, unless all such lands be sooner sold. At the close of business hours of the twentieth day of such sale, it shall be the duty of the county treasurer to bid off for the county the lands and town lots remaining unsold, for the amount of such taxes, interest and costs thereon. When the county treasurer has so bid off any tract of land or town lot for the county, he shall issue to the county a certificate of purchase as provided for in this act. Any person may, at any time within three years from the date of such certificate, deposit with the treasurer of such county the total amount due upon such certificate, and interest thereon since the date of such certificate, whereupon the clerk of the county shall assign such certificate to such person, and the treasurer shall give such person a receipt for any and all subsequent taxes and interest paid by such person, and thereupon such person shall be entitled to all rights and privileges the same as though he were the original purchaser at the tax sale. No taxes assessed against any lands purchased by the county under the provisions of this section shall be payable by the county until the same shall have been derived from the sale or redemption of such lands; nor shall such lands be again advertised and sold for taxes, so long as the title thereto acquired by such purchaser remains in the county, but such lands shall be annually listed and assessed, and the taxes thereon ascertained as on other real estate.

SEC. 37. The person who offers to pay the amount due on any parcel of land for the smallest portion of the same is to be considered the highest bidder, and when such portion constitutes one-half or more of the parcel, it is to be taken from the east side thereof. dividing it by a line running north and south, except that town lots are to be divided in each case lengthwise, by a line parallel with

HeinOnline -- 1887 96 1887

the proper lines of lots; if the portion be less than one-half, the tract is to be taken from the southeast corner in a square form, as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications: The homestead is liable to be sold for no tax, save that which is due on the same exclusively, and the above directions concerning the division of a tract of land shall be modified so as to meet this requirement, and to that end the quality of land bid for may be obtained by drawing division lines in any direction or form, so as to avoid the homestead, and when the homestead constitutes a part of the tract sold and is not yet ascertained, the court may in the action hereafter authorized, at the suggestion of either party, cause a proceeding to be had, similar to that required for a mechanic's lien. For the ascertainment of the homestead, and in all other cases of such sales, it may take the requisite order and proceedings to ascertain the land sold, and set it apart from the homestead.

SEC. 38. Should any person so bidding fail to pay the amount due, the treasurer may again offer the land for sale, If the sale has closed he may again advertise it specially and by description, by one written notice posted for two weeks in the civil township in which the land lies, and one such notice on the court house door, or the treasurer may recover the amount bid, by civil action, brought in the name of the county where the property is situated.

SEC. 39. The county treasurer shall make out, sign and deliver to the purchaser of any real property sold for the payment of taxes as aforesaid, a certificate of purchase, dscribing the property on which the taxes and costs were paid by the purchaser as the same was described in record of sales and also how much and what part of such tract or lot was sold, and stating the amount of each kind of tax, interest and cost for each tract or lot for which the same was sold, as described in record of sales, and that payment has been made therefor. If any purchaser shall become the purchaser of more than one parcel of property, he may have the whole included in one certificate.

SEC. 40. Such certificate of purchase shall be assignable by endorsement, and, on assignment thereof, shall invest in the assignee or his legal representative, all right and title of the original purchaser.

SEC. 41. Real property sold under the provisions of this act may be redeemed at any time before the expiration of three years from the date of sale, by the payment to the treasurer of the proper county, to be held by him subject to the order of the purchaser, of the amount for which the same was sold and subsequent taxes, and sixty per cent. interest per annum on said amount and

HeinOnline -- 1887 97 1887

on subsequent taxes, unless such subsequent taxes have been paid by the person or persons for whose benefit the redemption is made, which fact may be shown by the treasurer's receipt.

SEC. 42. The county treasurer shall, upon application of any party to redeem any real property, sold under the provisions of this act, and being satisfied that such party has the right to redeem the same, and upon the payment of the proper amount, issue to such party a certificate of redemption, setting forth the facts of the sale substantially as contained in the certificate of sale, the date of redemption, the amount paid and by whom redeemed; and he shall make the proper entries in the book of sales in his office and shall receive one dollar for such services.

SEC. 43. Immediately after the expiration of the time allowed for the redemption of any land sold for taxes under the provisions of this act, the treasurer then in office shall make out a deed for each lot or parcel of land sold and remaining unredeemed and deliver the same to the purchaser upon the return of the certificate of purchase. The county treasurer is required to demand two dollars for each deed made by him on such sale, but any number of parcels of land bought by one person, may be included in one deed, as may be desired by the purchaser.

SEC. 44. Deeds executed by the treasurer shall be substantially in the following form: "Know all men by these presents, That whereas, the following described property, to-wit: (Here follows the description) situate in the county of...., and territory of Montana, was subject to taxation for the years A. D.....; and whereas the taxes assessed upon said real property for the year or years aforesaid remained due and unpaid at the date of the sale hereinafter named; and whereas, the treasurer of said county did, on the ....day of ...., A. D. 188.., expose at public sale at the court house, in the county aforesaid, in substantial conformity with all the requirements of the statute in such case made and provided, the real property above described for the payment of taxes, interest and costs then due and remaining unpaid on said property; and whereas, at the time and place aforesaid A. B., of the county of ....and....of...., having offered to pay the sum of....dollars and....cents, being the whole amount of taxes on said property (here follows a description of the property sold), which was the least quantity bid for, and payment of such sum having been made by him to the said treasurer, the said property was stricken off to him at that price; and whereas, the said A. B. did, on the....day of...., A. D. 18.., duly assign the certificate of the sale of the property to E. F., of the county of....and....of....; and whereas, the time of redemption having elapsed since the date of said sale, and the said property has not been redeemed therefrom as provided by law: Now, therefore, I, C. D...., of the county aforesaid, for and in consideration of the sum to the....paid, as aforesaid, and

HeinOnline -- 1887 98 1887

by virtue of the statute in such case made and provided, have granted, bargained and sold, and by these presents do grant, bargain and sell unto the said A. B., his heirs and assigns, the real property last here described. To have and to hold unto the said A. B., his heirs and assigns forever.

In witness whereof, I, C. D...., as aforesaid, by virtue of authority aforesaid, have hereunto subscribed my name on this.... day of...., A. D. 18... C. D.

Territory of Montana, } ss.
.....County. }

I hereby certify that before me, in and for said county, personally appeared before me, the above named C. D...., of said county, at the date of the execution of the above conveyance, and to me known to be the identical person, whose name is affixed to, and who executed the above conveyance, as treasurer of said county, and acknowledged the execution of the same to be his voluntary act and deed as....of said county and for the purpose therein expressed.

Given under my hand and seal this....day of....A. D. 18....

SEC. 45. When by the mistake or the wrongful act of the county treasurer, land has been sold, the county is to hold the purchaser harmless by paying him the amount of principal and interest to which he would have been entitled had the land been rightfully sold, and the treasurer and his sureties will be liable for the amount to the county on his bond, or the purchaser may recover directly from the treasurer.

SEC. 46. When any lands or town lots are offered for sale for any taxes, it shall not be necessary to sell the same as the property of any person or persons; and no sale of any land or town lot for taxes shall be invalid on account of its having been charged on the assessment roll in any other name than that of the rightful owner or charged as unknown; but such land must in other respects be snfficiently described on the tax roll to identify it, and the taxes for which it is sold be due and unpaid at the time of such sale.

SEC. 47. At the first meeting of the board of county commissioners after such sale, the treasurer is required to file in the county clerk's office a return of his sale of land, retaining a copy in his office, showing the land sold, the names of the owners so far as known, the names of the purchasers and the sums paid by them, and also a copy of the notice of sale, with a certificate of service verified by an affidavit and such certificate shall be evidence.

SEC. 48. Each county treasurer shall, at the expiration of every three months render an account of and cause to be paid over to

HeinOnline -- 1887 99 1887

the territorial treasurer, the amount of all moneys collected for territorial purposes, and shall complete the collection of all lists delivered to him, and at the expiration of each fiscal year and at the expiration of his term of office shall make final settlement with the county commissioners of his county, who shall report to the territorial treasurer immediately thereafter a correct statement of the amount found due the territory, and the county treasurer shall remit to him such amount. No mileage shall in any case be hereafter allowed to county treasurers.

SEC. 49. If any county treasurer shall fail to correct or render his account as provided in the foregoing section, it shall be the duty of the territorial treasurer, and he is hereby authorized and required to commence proceedings for a forfeiture of his bond, and if such treasurer should fail or refuse to prosecute them, any taxpayer in the territory may commence such prosecution; that the first day in December in each year shall be the end of the fiscal year for county purposes, and the county treasurer shall, before retiring from office, settle in full with the county commissioners and the territorial auditor and treasurer.

SEC. 50. The treasurer of each county in this territory shall be by virtue of his office, collector of taxes therein, and shall perform such other duties as are or may be hereafter prescribed by law.

SEC. 51. The treasurer shall sell any and all personal property, or so much thereof as may be necessary, that may be seized by him for non-payment of taxes, at public sale, conducted openly, and shall be sold after notice published as required by law for the sale of personal property under execution.

SEC. 52. That every person, corporation or association, engaged in mining upon any quartz vein or lode or placer mining claim, containing gold, silver, copper or lead, is hereby required between the first and tenth days of August in each year, to make out a statement of the gross yield of the above named metals from each of such mine or mines being owned or worked by such person, corporation or association during the next year preceding the first day of August in each year, and the value thereof, which said statement shall be verified by the oath of such person, or the superintendent or managing agent of such corporation or association, and deliver the same to the assessor of the county in which such mine or mines are situated, between the dates above mentioned.. That said statement, verified as above provided, shall also contain a true and correct amount of actual expenditures of money and labor in and about extracting such ore, the reduction thereof, and the conversion of the bullion derived therefrom into money or its equivalent during such year; *Provided*, That the assessor shall at the time of assessing any person, firm, corporation or association have the power to examine the books and accounts of said person,

HeinOnline -- 1887 100 1887

firm, corporation or association, to fully satisfy said assessor that he has been furnished with a truthful report, and if satisfied from such examination that the report is false, he shall assess the same at the true amount of the net proceeds so near as he can arrive at the same; but no one, by virtue of the provisions of this article, shall be deprived of his right to appear before the proper board of equalization as other taxpayers under existing laws.

SEC. 53. That in making the statement of the expenditures mentioned in the foregoing section, such person, corporation or association shall be allowed to include therein all sums of money that have been expended for necessary labor, machinery, supplies of every kind and character needed and used in his or its mining operations, for improvements actually necessary in and about the working of such mine or mines, reducing the ores therefrom, and expended in and about the construction of mills, or reduction works used and operated in connection with said mine or mines for the purpose of reducing and extracting the precious metals therefrom, and shall not include any money invested in said mines or improvements made on the same during any year except the year immediately preceding such statement: *Provided*, That nothing herein contained shall exempt such improvements, mills, reduction works and supplies from taxation, as now provided by law: *Provided further*, That the expenditures referred to herein shall not include the salaries, or any portion thereof, of the officers of any corporation not actually engaged in the working of such mine or mines, or personally superintending the management thereof.

SEC. 54. That a tax shall be levied annually upon the net proceeds of all mines above named, such net proceeds to be ascertained and determined in the manner provided in the foregoing sections of this act, and that such tax shall be collected and the payment thereof enforced as now provided by law for the collection of other taxes.

SEC. 55. That if any person, corporation or association engaged in the kind of mining named in this article, shall refuse or neglect to make and deliver to the assessor of the county where his or their mines are situated, the statement required by law, and during the time specified, the assessor of such county is authorized and empowered, and it is hereby made his duty to proceed to fix and assess, according to his best knowledge and information, the amount upon which the tax shall be levied in the manner provided by law relating to the assessment of other property, and shall add a penalty of twenty per centum to the amount and value thereof. This act shall not be so construed as to exempt from taxation improvements consisting of buildings, erections or machinery placed upon any quartz lead or lode, or used in connection therewith, nor to exempt the surface of mines from taxation, according to its value, as other real estate.

HeinOnline -- 1887 101 1887

SEC. 56. All county taxes levied under the provisions of this act shall be deemed to be specially appropriated for the proper use of the fund for which the said tax was so levied; transfer from poor fund, or road fund, or any other special fund, is hereby prohibited. Any violation of the provisions of this section shall be deemed a misdemeanor, and any county officer convicted thereof, shall be punished by a fine of not less than five hundred dollars, and not exceeding one thousand dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

SEC. 57. On or before the first day of September in each year, each and every railroad corporation that has grants of lands from the United States to aid in the construction of its line of rail road, shall make a return to the territorial auditor of full and complete lists of lands sold or contracted to be sold in each county in which said lands may be situate during the year ending the last day of December next preceding, the correctness of which list shall be verified by the land commissioner or other proper officer of the railroad corporation. Thereupon the territorial auditor shall certify to each county clerk a list of such lands as are situate in his county, to be placed upon the real estate assessment roll for taxation in the name of the parties who may have purchased such land.

SEC. 58. The county clerks of the several counties shall, on or before the first day of January in each year, procure from the United States land office of the district in which the county may be situate, a list of lands upon which final proof has been made during the next year preceding the last of December, and enter the same upon the real estate assessment roll for taxation. For such list the county commissioners shall allow said land officers a reasonable compensation.

SEC. 59. That chapter LIII. of the revised statutes of Montana, and all the matter contained in said chapter which is embodied in an an act entitled "An act to compile and arrange the general laws of the territory of Montana, in force at the commencement of the fifteenth regular session of the legislative assembly, on the 10th day of January, 1887," approved March first, 1887, and an act entitled "An act in relation to road taxes and to repeal sections 1070 to 1076 inclusive, and section 1078 of the fifth division of the revised statutes, approved March 12, 1885," be and the same are hereby repealed. And further, that an act entitled "An act relating to assessment and levy of taxes," approved March 10th, 1887, be and the same is hereby repealed. That the secretary of Montana territory is hereby required to omit the publication of the matter by this section repealed in the publication of the compiled statutes of Montana. That all proceedings pending for the levy and collection of taxes and assessment of property accord-

HeinOnline -- 1887 102 1887

ing to the law of this territory as heretofore existing, shall be valid, and such proceedings shall be carried out according to the provisions of this act.

SEC. 60. All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby repealed. This act shall take effect and be in force from and after its passage.

Approved September 14, 1887.

CONCERNING TREE PLANTING AND ARBORICULTURE.

AN ACT to amend an act entitled "An act to encourage tree planting and arboriculture in Montana," approved February 28, 1887.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1 of an act to encourage tree planting and arboriculture in Montana, approved February 28, 1887, be amended to read as follows:

SEC. 1. For the purpose of advancing the interests of tree planting and arboriculture in this territory, the third Tuesday of April is hereby designated as Arbor day, and it shall hereafter be proper for the governor to annually make his proclamation setting the same apart as a day for the planting of trees, beautifying homes, cemeteries, highways, public grounds and landscapes; and those who teach in public schools shall direct and train the thoughts of the youth in tree planting and decorating by the practical observance of that day.

SEC. 2. That section 3 of said act be amended to read as follows:

SEC. 3. Any person who is a resident of this territory, who has now planted, or who shall hereafter plant and suitably cultivate for two years, one or more acres of land in fruit trees, he shall, for the eight years following thereafter, receive annually a reduction or exemption from his assessment of one hundred dollars for each acre so planted: *Provided*, That the trees so planted shall not stand more than thirty-three feet apart, and are so long kept in a growing condition.

SEC. 3. That section 6 be amended to read as follows:

SEC. 6. That when any resident of the teritory has or may hereafter plant and cultivate for two years, a line of forest trees or fruit trees, not less than sixteen feet apart and not more than eight feet from any water ditches within his land, said land shall be exempt from taxation to the amount of one dollar annually thereafter on the assessed valuation of such land for each growing tree thereon for a period of five years.

HeinOnline -- 1887 103 1887

SEC. 4. This act shall be in force and take effect from and after its passage.

Approved September 13, 1887.

DEFINING THE QUALIFICATIONS OF VOTERS IN INCORPORATED TOWNS AND CITIES.

AN ACT defining the qualifications of voters in incorporated towns and cities.

Be it enacted by the Legislative assembly of the Territory of Montana:

SECTION 1. That all citizens of the United States and those who have declared their intentions to become such and are otherwise entitled to vote for members of the territorial legislature, shall be entitled to vote for the choice of mayor, aldermen and all other elective officers in any town or city, which is now, or may hereafter be incorporated within this territory; *Provided*, That all persons offering to vote at any municipal election shall have resided within the corporate limits of such municipality three months preceding any such general or special election, and shall be residents of the ward where they offer to vote.

SEC. 2. That if any judge or clerk of election of any town or city, which is now, or may be incorporated within this territory, shall knowingly and intentionally receive or count the vote of any other person or persons at any election in violation of the provisions of section one, of this act, he shall be punished for every offence of which he shall be convicted by imprisonment in the territorial prison for a term of not less than one nor more than five years.

SEC. 3. That all acts and parts of acts in conflict with this act, be, and the same are hereby repealed.

Approved September 8, 1887.

TO APPORTION MEMBERS OF THE LEGISLATIVE COUNCIL TO THE COUNTIES OF MEAGHER, FERGUS, GALLATIN AND PARK.

AN ACT to apportion members of the legislative council to the counties of Meagher, Fergus, Gallatin and Park.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. Members of the council shall be apportioned to the counties of Meagher, Gallatin, Fergus and Park, as follows: To the counties of Meagher and Gallatin one member jointly. To the counties of Park and Fergus one member jointly.

SEC. 2. This act shall take effect and be in force from and after the first day of November, 1888.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Approved September 14: 1887.

HeinOnline -- 1887 104 1887

SPECIAL LAWS.

CREATING CASCADE COUNTY.

AN ACT to create the county of Cascade, to define its boundaries and provide for its organization.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all that part of the territory of Montana embraced within the following boundaries, to-wit: Beginning in the middle of the main channel of the Missouri river at a point on the northern boundary of township numbered twenty-two, north of range six east; thence running west along the north boundary of township twenty-two north, to the prime meridian of Montana; thence south along said prime meridian to the north boundary of township twenty-one north; thence west along the northern boundary of said township twenty-one north to the western boundary of said township twenty-one north of range two west; thence south to the middle of the main channel of Sun river; thence westerly up the middle of the main channel of Sun river to the Helena guide meridian; thence south along the Helena guide meridian to its intersection with the middle of the main channel of the Dearborn river; thence down the middle of the main channel of Dearborn river to the middle of the main channel of the Missouri river; thence up the middle of the main channel of the Missouri river to its intersection with the north bounday line of township fourteen north; thence east along the north boundary line of township fourteen north to the middle of the main channel of Smith's river; thence down the middle of the main channel of Smith's river to the north boundary of township fifteen north: thence east along the northern boundary of township fifteen north to the southeast corner of township sixteen, north of range ten east; thence north along the east boundary of range ten east to the south boundary line of Choteau county; thence west along the south boundary line of Choteau county to its intersection with the east boundary of township nineteen north of range seven east; thence north along the eastern boundary of said township nineteen, north of range seven east, to the fifth standard parallel north; thence west along said fifth standard parallel north, to a point in the mid-

HeinOnline -- 1887 105 1887

dle of the main channel of Belt creek. thence in a northwesterly direction following the main channel of Belt creek to the middle of the main channel of the Missouri river; thence down the the main channel of the Missouri river to the place of beginning be, and the same is hereby created, set apart and established as a county to be known as and called Cascade county. The town of Great Falls, situated within the boundaries above mentioned shall be the county seat of said county until some other place within said boundaries shall be designated as such as provided by law. All laws of a general nature applicable to the several counties of this territory and the officers thereof, are hereby made applicable to said county of Cascade and the officers who may hereafter be elected or appointed therein except as otherwise provided in this act.

SEC. 2. That the present indebtedness of the counties of Choteau and Meagher shall be apportioned between said counties respectively, and said county of Cascade as follows, to-wit; To the county of Choteau, the said county of Cascade shall be liable for and shall pay the sum of thirty thousand dollars, and to the said county of Meagher the county of Cascade shall be liable and shall pay the sum of six thousand dollars, which said sums shall be in full of all claims and demands against said county of Cascade for, or on account of its proportion of the present indebtedness of said counties respectively; and it is hereby made the duty of the county commissioners of the county of Cascade to cause to be issued at their first regular session to each of said counties a warrant or warrants on the general fund of said county for the amounts to which they may be respectively entitled as aforeeaid, which said warrants if not paid on presentation to the treasurer of said county of Cascade shall be by him endorsed "not paid for want of funds," and shall thereafter bear like interest as other county warrants, or the said commissioners may issue coupon bonds of said county bearing interest at not more than six per cent. per annum, payable in seven years, and due in fifteen years, in payment of said debt, and to pay current expenses for the first year. Said bonds shall not be sold for less than par and shall be issued as near as may be in conformity with the general law.

SEC. 3. It is hereby made the duty of the respective county treasurers of the counties of Choteau, Meagher and Lewis and Clarke to transfer and pay over to the treasurer of the county of Cascade, such moneys as may be on hand on the third Monday in December in said counties to the credits of such school districts embraced within the limits of said county of Cascade as may have been hereby carved out of said counties of Meagher, Choteau and Lewis and Clarke respectively, which said moneys so transferred shall be held by the treasurer of said county of Cascade to the credit, and for the use of the same school districts as were credited to the couuties where they were originally situated.

HeinOnline -- 1887 106 1887

SEC. 4. At the next general election three county commissioners shall be voted for in in said county of Cascade, the person receiving the highest number of votes for county commissioner shall hold the office until the general election in 1892, and until his successor is elected and qualified. The two persons receiving the next highest number of votes for county commissioner shall hold the office until the general election in 1890 and until their successors are elected and qualified. If two or more persons voted for as commissioners at said election receive an equal number of votes the terms of office of the commissioners between whom such tie exists shall be determined by lot.

SEC. 5, The following named persons are hereby appointed to fill the offices set opposite their respective names, to-wit:

Charles Wegner, county commissioner.
J. A. Harris, county commissioner.
F. A. Wall, county commissioner.
C. P. Downing, sheriff.
Arthur E. Dickerman, treasurer.
James W. Matkin, county clerk and recorder.
Herbert P. Rolfe, probate judge.
Richard T. Gorham, assessor.
George W. Taylor, county attorney.
Bessie Ford, superintendent of public instruction.
John H. Fairfield, coroner.
John W. Stanton, public administrator.

Who shall have the same powers, duties and privileges as are by law conferred upon like officers in other counties in this territory, and who shall hold their respective offices from the third Monday of December, 1887, until after the next general election or until their successors are duly elected and qualified. Said county commissioners, before entering upon their duties, shall severally give the bond and take the oath required of county commissioners. Said bond shall be filed with, and approved by the territorial auditor.

SEC. 6. That the officers mentioned in section five of this act shall each be allowed to receive an annual compensation for their services as such officers, as follows, to-wit:

Treasurer, fifteen hundred dollars.
Sheriff, eighteen hundred dollars.
Assessor, fifteen hundred dollars.
County clerk and recorder, eighteen hundred dollars.
Probate judge, ten hundred dollars.
Superintendent of public instruction, six hundred dollars.
County attorney, four hundred and fifty dollars, and such other fees as are provided by law.
Deputy clerk of district court, six hundred dollars.

Said salaries shall commence when said officers shall enter upon their resepctive duties, and shall have qualified according to law. Said

HeinOnline -- 1887 107 1887

officers shall receive no other fee, compensation or emolument from said county except the salary herein stated.

SEC. 7. The commissioners of Cascade county are empowered to subdivide said county into municipal townships and establish road districts, and are hereby authorized to appoint two justices of the peace and two constables for each municipal township and one road supervisor for each road district, who shall hold their offices until the general election of 1888, and until their successors are elected and qualified.

SEC. 8. The county commissioners of Cascade county shall have the power and authority to contract for transcribing such part of the public records of Choteau, Meagher and Lewis and Clarke counties as they may deem useful and necessary to the county of Cascade and its inhabitants, and for the purpose shall have suitable access to the records of each of said counties. Said records, when completed, shall be carefully compared with the originals by the county clerk of the county from whence they are respectively taken, and when correct, shall be by him so certified under his official seal, and thereafter the records so transcribed and certified to, shall be received and admitted in evidence in all the courts in the territory, and shall be in all other respects entitled to like faith and credit as said original records. The county clerks of Choteau, Meagher and Lewis and Clarke counties shall receive for their services in comparing and certifying to the correctness of the copies of said records, six dollars per diem, respectively, while engaged in said labor, which amounts shall be paid by the county of Cascade on the completion thereof.

SEC. 9. It shall be the duty of the several county treasurers of the counties of Choteau. Lewis and Clarke and Meagher, severally, to make out a list of all taxes that have become delinquent and due from residents of or assessed upon property situated in those portions of the several counties included within the boundaries of the said county of Cascade on or before the third Monday of December, 1887, and they shall immediately thereafter transmit said lists to the treasurer of said county of Cascade, who shall thereupon collect the same in the manner provided by law for the collection of delinquent taxes, and the taxes so collected shall immediately be paid over to the said county treasurers entitled thereto.

SEC. 10. All township and precinct officers, road supervisors, officers of school districts, and other officers of every kind within the county of Cascade, whose election or appointment is not herein provided for, shall or may continue to hold the offices and exercise the duties pertaining thereto until the expiration of the term for which said officers were respectively elected or appointed.

SEC. 11. The county of Cascade, and all persons in its name, are hereby prohibited from contracting any indebtedness whereby

HeinOnline -- 1887 108 1887

said county shall be bound in any sum which shall, at the time of contracting the same, exceed three per centum of the assessed valuation of the taxable property of said county, taking the last previous assessment thereof as the standard of valuation, and no cause of action shall be against said county for any indebtedness contracted in its name above the limitation named, however the same may be evidenced; but nothing herein contained shall deprive the holder of any indebtedness contracted in the name or on behalf of said county from the right of action against the person or persons who actually contracted the same, or who received a consideration therefor, and no court house shall be constructed by said county until the assessed valuation thereof shall exceed four million dollars.

SEC. 12. The county boundaries of Meagher, Choteau, and Lewis and Clarke, and Fergus counties are hereby altered to conform to the county boundaries of Cascade county as established in this act: *Provided*, That that part of Meagher county east of range ten east and north of the north boundary of township fifteen north shall be added to and made a part of Fergus county, and that part of Fergus county west of range eleven east and south of the north boundary of township fifteen north, shall be added to and made a part of Meagher county.

SEC. 13. This act shall take effect from and after the third Monday of December, A. D. 1887, but the county of Cascade shall be attached to the county of Choteau for legislative purposes, and it shall be attached to said county of Choteau for judicial purposes until February first, A. D. 1888.

Approved Sept. 12, 1887.

PROVIDING FOR THE TRANSFER OF CERTAIN RECORDS FROM GALLATIN COUNTY TO PARK COUNTY.

AN ACT to provide for transferring certain records from Gallatin county to Park county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The probate judge of Gallatin county, Montana territory, is hereby authorized and required to transmit and file with the probate judge of Park county, Montana territory, all records, books, papers, plats and maps now in his office pertaining exclusively to the town site of Cooke City and the entry thereof: also that the county clerk and recorder of said Gallatin county is hereby anthorized and required to transmit and file with the county clerk and recorder of said Park county, the official plat or map of the town of Livingston, and all additions thereto, and the town of Cooke City and the town of Gardiner respectively, now on file in the office of the clerk and recorder of said Gallatin county, and

HeinOnline -- 1887 109 1887

after the transfer and filing of such books, papers, redords, plats and maps as herein required, the same shall be and remain records of said Park county, as if originally made and filed therein.

SEC. 2. The county clerk of the county of Gallatin shall transfer to the county clerk of the county of Park, books one, two, three and four of mining location records, and book nine of mining deed record of the records of the county of Gallatin, and the same shall henceforth be part of the records of the said county of Park.

SEC. 3. Before such transfer is made the commissioners of the county of Park shall have transcribed in well bound books from the above records all such instruments as relate to mines located within the present boundaries of the county of Gallatin; said records when completed shall be carefully compared with the originals by the county clerk of the county of Gallatin, and if correct, he shall certify to their correctness under his official seal and thereafter the copies of said records so transcribed and certified to, shall be admitted and received in evidence in all courts in this territory, and shall be in all other respects entitled to like faith and credit as said original records. The county clerk of the county of Gallatin shall receive for his services in comparing and certifying to the correctness of the copy of said records, six dollars per day while actually engaged in said labor, and no other compensation, which amount shall be paid by the county of Park on the completion thereof, in the manner provided by law for the payment of county obligations, and the said copies shall henceforth be part of the records of said county of Gallatin.

Approved September 13, 1887.

PROVIDING FOR EXTRA CLERKS FOR THE LEGISLATIVE COUNCIL AND HOUSE OF REPRESENTATIVES.

Council joint resolution providing for extra clerks for Council and House and compensation therefor.

Be it resolved by the Legislative Assembly of the Territory of Montana:

That the president of the council and speaker of the house are hereby authorized and empowered to appoint three additional clerks in each of their respective houses; said clerks to assist the regular clerks, assist committees, and perform such other duties as may be lawfully required of them.

The compensation of said clerks shall be five dollars per day, and the auditor of the territory is hereby authorized to draw warrants in their favor upon presentation of pay rolls duly, certified to respectively by the president of the council and speaker of the house and the chief clerks of the respective houses.

Approved August 30, 1887.

HeinOnline -- 1887 110 1887

MEMORIALS.

Council Joint Memorial praying for an amendment of the alien land laws.

To the Honorable, the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the council and house of representatives composing the legislative assembly of the territory of Montana, respectfully represent to your honorable bodies, that business of mining, which is one of the chief industries of this territory, requires for its successful prosecution the expenditure of large sums of money in the development and exploration of mines, and in the erection and construction of quartz mills, smelting works and other machinery and appliances necessary for the reduction of our ores and the separation of the precious metals therefrom. Hitherto large amounts of foreign capital have been invested in our mines and in the requisite machinery and appliances necessary to reduce the product thereof to bullion, thereby giving permanent and profitable employment to large numbers of our citizens and adding very largely to the taxable wealth of the country. But for the investment of foreign capital in this manner, some of the leading mining properties in this territory to-day would yet, in all probability be lying dormant and unproductive. The risk and expense of developing mining properties is so great and there are so many avenues for the investment of money, where, if the returns promised are not so great, are yet far more certain and secure, that home capital, in anything like requisite amounts, cannot be enlisted for the development of our mines. For the purpose of carrying out these gigantic enterprises resort must be had to great monied centers where capital is abundant and seeking investment and the rate of interest low. Encouraged by the results of experimental investments in this direction, capitalists in some of the largest monied centers of the world were preparing to make very large investments in mining properties in this territory, when your honorable bodies passed the act entitled "An act to restrict the ownership of real estate in the territories to American citizens, and so forth," approved March 3rd, 1887. But for the passage of the act above mentioned it is a known fact that several million dollars of foreign capital would have been invested in mining ventures in this territory during the present season. The holding in case of mineral land must of necessity be so limited in area, and the expenditure of money and

HeinOnline -- 1887 111 1887

labor so great in order to make it productive, that it cannot be claimed that the holding of this class of property by aliens is any serious injury to any one, and it certainly results in great benefit to people of our territory. Wherefore your memorialists earnestly pray that said alien land act may be so amended by your honorable body as to exclude from its operation mineral lands in the territories. And your memorialists, will as in duty bound, ever pray.

F. K. ARMSTRONG,
Speaker of the House of Representatives.
R. O. HICKMAN,
President of the Council.

House Joint Memorial asking for a brick wall around the penitentiary.

To the honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Montana, respectfully represent: That the convicts of this territory are now incarcerated in the United States prison at Deer Lodge, Montana; that the territory pays the United States a per diem therefor fully equaling or exceeding the entire cost of the same to the United States; that an inspector of the department of justice, after personal and thorough examination, has recently urgently recommended the erection of a brick wall around the yard of said prison in place of the insecure board fence at present existing; that said wall will give greater security to the prison and is absolutely necessary therefor; that brick can be made on the ground of the United States within the present inclosure, and that a very large proportion of the labor in making said brick and erecting said wall can be performed by the convicts, thus affording them useful employment in an avocation where they are not in competition with free labor, and enabling the construction of a durable wall at a very low cost. We, therefore, most respectfully and earnestly ask that you give favorable consideration to the recommendations and estimates of the department of justice in this respect. And we, your memorialists, will ever pray, etc.

F. K. ARMSTRONG,
Speaker of the House.
R. O. HICKMAN,
President of the Council.

Council Joint Memorial praying for the passage of an act of Congress increasing the number of the legislative assembly of Montana.

To the Honorable., the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives composing the legislative assembly of the territory of Montana,

HeinOnline -- 1887 112 1887

respectfully represents to your honorable bodies that the act of congress of the 19th of June, 1878, limiting the legislative assembly of this territory to twelve members in the council and twenty-four members in the house was passed at a date when the number of votes in territory was only 9,242 and the population only about 45,000, and the assessed valuation $12,777,028. That since that date railroads have entered the territory and are being constructed in all portions thereof. The mining and agricultural resources oave been developed to a wonderful extent and the country is rapidly being settled. The number of voters at the last election were 32,262. The population is about 150,000 and the assessed valuation is over fifty-five million dollars, while the number of counties in the territory has increased from ten in 1878, to fifteen in 1887. The apportionment of members of the legislative assembly has become a difficult task. It is impossible to make this apportionment so that the politcal divisions of this territory may be equally represented. That just and equable representation is dear to a free and enlightened people, and that such representation may be more perfectly made, your memorialists would earnestly pray that the number of members in this legislative assembly may be increased to twenty-four in the council and forty-eight in the house. And your memorialists will as in duty bound, ever pray.

F. K. ARMSTRONG,
Speaker of the House of Representatives.
R. O. HICKMAN,
President of the Council.

HeinOnline -- 1887 113 1887

HeinOnline -- 1887 114 1887

INDEX

TO CONSTITUTION OF THE UNITED STATES.

	PAGE.
CONSTITUTION	6-15
AMENDMENTS	16-19
ADJOURNMENT OF CONGRESS.	
Sec. 5	8
APPORTIONMENT. See Congress	
ARMY and Navy.	
President and commander-in-chief of, sec. 2	12
ARMS.	
Right of people to bear, art. 2	16
ARREST.	
Members of Congress privileged from, sec. 6	8
BAIL.	
Excessive, not to be required, art. 8	17
BILLS.	
How become law, sec. 7	8
When become law without President's approval, sec. 7	8
Of attainder, none shall be passed, sec. 9	10
Of credit, no state shall emit, sec. 10	10
For raising revenue, shall originate in House of Representatives, sec. 7	8
CITIZENS of the United States.	
Who are, sec. 1	18
Of states, sec. 1	18
Privileges of, sec. 2	14
Rights of, sec. 1	19
CONGRESS.	
Legislative powers vested in, sec. 1	6
Of what consists, sec. 2	6
Apportionment of Representatives, sec. 2	6
To meet annually, sec. 4	7
Adjournment of, sec. 5	8
Powers of, defined and enumerated, sec. 8	9-10
To make rules and regulations respecting territory and other United States property, sec. 3	14
Members of, privileged from arrest, sec. 6	8
Members of, disqualified from holding certain offices, sec. 6	8
Veto power over acts of, sec. 7	8
To make laws to carry out the provisions of the Constitution, sec. 8	10

	PAGE.
CONGRESS.	
Votes for President and Vice-President opened and counted in presence of, art. 12	17
Each house may adopt its own rules, sec. 5	8
CONSTITUTION of the United States.	
Preamble to	6
Amendments to	16
Amendments to, how made, art. 5	15
Laws made in pursuance of, supreme, art. 6	15
Ratification of, art. 7	15
Powers not delegated in, reserved to states or people, art. 10	17
COURTS of the United States.	
Judges of, hold office during good behavior, sec. 1	13
Jurisdiction of, sec. 2	13
ELECTORS.	
Presidential, how elected, sec. 1	11
Time of choosing, prescribed by congress, sec. 1	12
For President and Vice-President, art. 12	17
ELECTIONS.	
For senators and representatives, sec. 4	7
Times and places of holding, sec. 4	7
How prescribed, sec. 4	7
Each house of congress, judges of, sec. 5	8
EXECUTIVE. See President.	
EX POST FACTO Laws.	
None shall be passed, sec. 9	10
FINES.	
Excessive not to be imposed, art. 8	17
FUGITIVES.	
From justice, delivered up when, sec. 2	14
From service or labor, sec. 2	14
HABEAS CORPUS.	
Shall not be suspended, exceptions, sec. 9	10
HOUSE of Representatives of the United States	
How composed, sec. 2	6
Apportionment of members of, sec. 2	6-7
Vacancies in, how filled, sec. 2	7

HeinOnline -- 1887 115 1887

PAGE.

HOUSE of Representatives of the United States.
Judge of qualifications of its members, sec. 5 ... 8
To choose its officers, sec. 2 ... 7
To keep a journal of its proceedings, sec. 5 ... 8
May determine its rules, etc., sec. 5 ... 8
Revenue bills to originate in, sec. 7 ... 8
Who may be members of, sec. 2 ... 6
Compensation of members, sec. 6 ... 8
Adjournment of, sec. 5 ... 8
When may elect President, art. 12 ... 18

IMPEACHMENTS.
Sole power to try, sec. 3 ... 7
Concurrence of two-thirds necessary to convict, sec. 3 ... 7
How far judgment in shall extend, sec. 3 ... 7

JUDICIAL POWER.
How vested, sec. 1 ... 13
To what shall extend, sec. 2 ... 13
All crimes, except in cases of impeachment, tried by jury, sec. 2 ... 13
Judicial power, construed, art. 11 ... 17

JURY.
Right of trial by, sec. 2 ... 13

JUDGMENTS.
In cases of impeachments, sec. 3 ... 7

JURISDICTION. See Courts.

LAWS.
No ex-post facto to be passed, sec. 9 ... 10
In pursuance of constitution, supreme, art. 6 ... 15

MONEY. See Treasury.

NAVY. See Army and Navy.

NOBILITY.
No title to be granted, sec. 9 ... 10

PRESIDENT of the United States.
Term of office of, sec. 1 ... 11
How elected ... 17-18
Qualifications of, sec. 1 ... 12
May be impeached, sec. 4 ... 13
When tried, chief justice to preside, sec. 3 ... 7
Oath of office, sec. 1 ... 12
Commander-in-chief of army and navy, sec. 2 ... 12
Duties and powers of, secs. 2, 3 ... 12-13
May be removed on impeachment, sec. 4 ... 13
Shall commission all officers, sec. 2 ... 12
Bills to be presented to for approval, sec. 7 ... 8
Veto power of, sec. 7 ... 8
Compensation of, sec. 1 ... 12

PRESENTS.
No officer of the United States shall accept from foreign powers, sec. 9 ... 10

PRIVILEGES.
Of members of Congress, sec. 6 ... 8
Of citizens of the United States, sec. 2 ... 14

POWERS.
Not delegated reserved to states or people, art. 10 ... 17

PUNISHMENTS.
Cruel or unusual not to be inflicted, art. 8 ... 17

REPRESENTATIVES. See Congress. House of Representatives.

PAGE.

REVENUE.
Bills for, where to originate, sec. 7 ... 8
Bills for Senate may propose amendments to, sec. 7 ... 8

RELIGION.
Congress shall make no law establishing, art. 1 ... 16

SENATE of the United States.
Sole power to try impeachments, sec. 3 ... 7
How composed, sec. 3 ... 7
Shall be judge of its members, sec. 5 ... 8
Who may be members, sec. 3 ... 7
Vacancies in, how filled, sec. 3 ... 7
Trials of impeachment by, sec. 3 ... 7
To keep a journal of proceedings, sec. 5 ... 8
To determine rules of its proceedings, sec. 5 ... 8

SENATORS of the United States.
Who may be a senator, sec. 3 ... 7
How chosen, sec. 3 ... 7
Term of office, sec. 3 ... 7
Classification of, sec. 3 ... 7
Compensation of, sec. 6 ... 8
Disqualified during the term from holding certain offices, sec. 6 ... 8

SLAVERY.
Abolished in the United States, sec. 1 ... 18

STATE.
Not to make treaty of alliance, sec. 10 ... 11
Not to lay imposts or duties, sec. 10 ... 11
Not to grant letters of marque and reprisal, sec. 10 ... 10
Not to coin money or emit bills of credit, sec. 10 ... 10
Not to impair obligation of contracts, sec. 10 ... 10
Not to lay duty on tonnage, sec. 10 ... 11
Not to keep troops or ships of war, sec. 10 ... 11
New states, how admitted, sec. 3 ... 14
Powers not delegated, reserved to states or people, art. 10 ... 17
No new state created out of old without consent, etc., sec. 3 ... 14

SOLDIER.
In time of peace not quartered in any house without consent of owner, art. 3 ... 16
In time of war as prescribed by law, art. 3 ... 16

SEARCH and seizure.
Right of people against, art. 4 ... 16

TRIAL by jury.
Right of, sec. 2 ... 13

TRIAL.
Right of accused to speedy trial, art. 5 ... 16

TREASURY.
Money to be drawn only in pursuance of law, sec. 9 ... 10

TREASON against the United States.
What shall be deemed, sec. ... 14
Effect of conviction for, sec. 3 ... 14

UNITED STATES OF AMERICA. See Constitution.

VACANCIES.
In representation of any state, how filled, sec. 2 ... 6

VICE-PRESIDENT of the United States.
General duties and powers of, sec. 3 ... 7

HeinOnline -- 1887 116 1887

INDEX

TO REVISED STATUTES AND LAWS OF THE UNITED STATES.

PAGE.

ACCOUNTS and Disbursements.
Ordnance account to be adjusted, chap. 132 55
Treasury department to settle, sec. 1886 29

ADULTERY.
Punishment for, sec. 3 35

ALIENS.
Prohibited from acquiring real estate in territories, chap. 340 33
Same, exception, chap. 340 34

Ownership of stock in corporation, sec. 2 34
Property unlawfully held forfeited, sec. 4 34

APPEALS.
To supreme court, sec. 1869 26
Same, when may be taken, sec. 1-3 54
Probate to district court, sec. 1932 42
To supreme court U. S., sec. 2 45

APPORTIONMENT.
Ratio of representation, sec. 1849 23
Legislature to make, chap. 329 52

ASSOCIATE JUSTICES.
Appointment of, sec. 1877 27
Salary of, sec. 1879 28

ATTORNEY. See U. S. Attorney.

ATTORNEY General, U. S.
Penitentiary under control, sec. 1893 30

BILLS,
Of exceptions, sec. 1869 26

BILLS, Legislative.
Governor to return in three days, sec. 1842 21

BOUNDARIES.
Indian Territory excepted out, sec. 1839 20

CAPITAL.
How selected, sec. 1885 29
See Seat of Government.

CENSUS.
When to be taken, sec. 1847 22

CHARITABLE CORPORATIONS, &c. sec. 1890 29

CHARTERS.
Words in act prohibiting territorial legislature from granting, &c., construed, chap. 168 51

PAGE.

CHARTERS.
Heretofore granted for municipal purpose, &c., ratified and confirmed, chap. 168 51

CHIEF JUSTICE.
Appointment of, sec. 1877 27
Salary of, sec. 1879 28

CIVIL RIGHTS. See rights.

CIRCUIT COURTS of U. S., sec. 1876 27

CLERK.
Supreme court, term of, sec. 1870 26
District court, compensation, sec. 1871 26
Register in chancery, sec. 1872 27

COLOR.
No distinction on account of before the law, sec 1 16
See rights.

COMPENSATION.
Legislative assembly, chap. 329 51
Extra not allowed, sec. 1855 24
Clerk of district, sec. 1871 26
See Salary, Officers, Fees.

CONGRESS.
Supervisory power over territorial laws, sec. 1850 23
Appropriations of, sec. 1886 29

CONVICTS.
Contracts may be made for keeping same beyond the territory, chap. 235 53

CONSTITUTION.
In force in territories, 1891 30

CORPORATIONS.
Religious and charitable, real estate limited to $50,000, sec. 1890 29
Same, trustees for, sec. 26 38
Surplus escheats to U. S., sec. 1890 .. 29
Vested rights un impaired, sec. 1890 .. 29
What property may be held by, secs. 2, 3, 4 34
May hold 5,000 acres of land, sec. 3 ... 34
Municipal, chap. 168 51
Proceedings to forfeit property of, secs 13, 14 37
Private rights not created, chap. 168 51
Contracts not affected, chap. 168 51
Corporation debts, chap 168 51
See Incorporations.

COUNCIL, Legislative.
Members, qualifications of, sec. 1846 22
Members, number of, chap. 329 51
See House of Representatives and Legislative Assembly.

HeinOnline -- 1887 117 1887

PAGE.

COUNTIES.
Courts may be held in, 1874..... 27
Courts in, times and places, sec. 1914 41

COURTS.
Trial by jury in law cases, sec. 1..... 44
Jurisdiction limited, sec. 1866..... 26
Terms of, sec. 1914..... 41
Practice, law and chancery, sec. 1... 44
See District Court; Supreme Court; Supreme Court of U. S

DELEGATE to Congress.
Elected, and rights of, sec. 1862..... 25
First election of, sec. 1863..... 25
Citizen of U. S. must be, sec. 1906.. 40

DESERT LAND.
Citizen of U. S. may reclaim not to exceed 640 acres, &c., sec. 1..... 48
Declaration must describe, sec. 1.... 48
Definition of term and how proven, sec. 2..... 49
What considered such to be determined by commissioner, sec. 3.... 49
What states and territories act applies to, sec. 3..... 49

DISTRICT COURT.
Jurisdiction, common law and chancery, sec 1868..... 26
In U. S. cases, sec. 1910..... 41
Judicial power vested, sec. 1907..... 40

DISTRICT COURT of U. S. sec. 1910 41

DISTRICT, Judicial.
See Judicial District.

DOWER.
Of what widow shall be endowed sec. 18..... 37

ELECTIONS.
First for legislature, sec. 1847..... 22
To be conducted as Governor may direct, sec. 1847..... 22
Subsequent under laws of territory, sec. 1848..... 23
Time and place of holding, sec. 1848 23

EQUALITY.
Of persons before the law, sec. 1.... 46

ESCHEAT.
Real estate of certain corporations to U. S., sec 1890..... 29

EXECUTIVE POWER.
Vested in Governor, sec. 1841..... 20

FEES AND COSTS.
Allowed to certain officers, sec. 1883 28

FORNICATION.
Punishment for, sec. 5..... 36

GOVERNOR.
Term of office, sec. 1841..... 20
Removed by President, sec. 1841..... 20
Reside in territory, sec. 1841..... 20
Commander-in-chief, sec. 1841..... 20
General powers of, sec. 1841..... 20
Bills to be approved by, sec. 1842 ... 21
Veto power, sec. 1842..... 21
Secretary, acting Governor, sec. 1843 21
To cause census to be taken, sec. 1847 22
To direct manner of holding first election, sec. 1847..... 22
To apportion, sec. 1847..... 22
Extra compensation not allowed, sec. 1855..... 24
To nominate certain officers, sec. 1857 24
To fill vacancies, 1858..... 24
To district, territory and temporarily assigned judges, &c., sec. 1873 .. 27
Appointment of, sec. 1877..... 27

PAGE.

GOVERNOR.
Oath of office, sec. 1878..... 27
Salary, no payment until, sec. 1941.. 42

HABEAS CORPUS.
See Writ of Habeas Corpus.

HOUSE of Representatives.
Members, where to reside, sec. 1846.. 22
Appointed according to ratio of population, sec. 1849, p. 23, chap 329... 51
Number of members, sec. 1849, p. 23, chap. 329..... 51

INCEST.
Punishment for, sec. 4..... 36

INCORPORATIONS.
Legislative assembly may pass general incorporation acts 1889..... 29
Words in act relating to, construed, chap. 168..... 51

INDIANS.
Rights of person and property not impared, sec. 1839..... 20
Indian territory not embraced within boundaries of territory, sec. 1839 20
Authority to regulate lands of, sec. 1840..... 20

IRRIGATION.
See Water.

JUDGES.
Supreme court, sec. 1864..... 26
Term of office, sec. 1864..... 26
Oath of office, sec. 1878..... 27
Residence, sec. 1865..... 26
To district the territory, sec. 1914.... 41

JUDGES of District Court.
Shall appoint clerks, sec. 1871..... 26
To hold courts in counties, sec. 1874.. 27

JUDICIAL Districts.
Judges to divide territory, sec. 1869 p. 26, sec. 1914..... 41
Territory divided into four, sec. 2.... 55
Judicial power, how vested, sec. 1907 40

JURISDICTION
Territorial limits of, sec. 1839..... 20

JUSTICES of the Peace.
To be elected, sec. 1856..... 24
Jurisdiction when title to land in question, sec. 1867..... 26
Vacancies, how filled, sec. 3..... 53
Judicial power vested in, sec. 1907. 40
Limit of jurisdiction, sec. 1926..... 41

LAND.
See Desert Land, Timber.

LAWS.
To be presented to the governor for approval, sec. 1842..... 21
If not allowed, how passed, sec. 1842 21
To be published, sec. 1844..... 21
To prescribe manner of holding elections, sec. 1848..... 23
Of certain territories to be submitted to congress, sec. 1850..... 23

LEGISLATIVE Assembly.
Action on vetoed bills, sec. 1842 .. 21
How constituted, sec. 1846..... 22
Members, how chosen, sec. 1846 ... 22
Term of office, sec. 1846..... 22
Biennial sessions, sec. 1846, p. 22, chap. 287..... 48
To fix regular sessions, sec. 1846..... 22
First session of, sec. 1847, p. 22, and sec. 23..... 23
Subsequent sessions and elections, sec. 1848..... 23

HeinOnline -- 1887 118 1887

PAGE.

LEGISLATIVE Assemtly
Not to enact local or special laws, chap. 818 ... 31
Apportionment of, sec. 1849, p. 16, chap. 329 ... 51
Compensation of members, chap. 329 ... 51
Compensation of officers, sec. 1861 p. 17, chap. 329 ... 51
Members prohibited from holding certain offices, sec. 1854 ... 23
Certain officers not to be members, sec. 1854 ... 23
Sessions of, not to be held, when, sec. 1886 ... 29
Expenses not to exceed annual appropriations, sec. 1888 ... 29
Private charters and special privileges not to be granted by, sec. 1889 ... 29
May enact general incorporation laws sec. 1889 ... 29
May pass general incorporation acts for certain purposes, sec. 5 ... 33
Expenses defrayed, how, sec. 1940 ... 42
Convened, when, sec. 1876, p. 27, chap. 287 ... 48
Words in act prohibiting grants of private charters, &c., construed, chap. 168 ... 51
Number of members limited, chap. 329 ... 51
Subordinate officers limited, chap. 329 ... 51
New apportionment to be made, chap 329 ... 51
Fees of secretary to be fixed by, chap. 329 ... 51
Length of sessions, sec. 1852 ... 54
Payment of printing for, chap. 389 ... 54

LEGISLATIVE Power.
Extended to all rightful subjects of legislation, sec. 1851 ... 23
Except to dispose of soil, sec. 1851 ... 23
Except to impose tax on U. S. property, sec. 1851 ... 23

MARRIAGE.
Certificate of, sec. 9 ... 36
Proof of, secs. 9, 10 ... 36

MARSHAL. See U. S. Marshall

MILEAGE.
Of members of legislature, sec. 1943 ... 42

MONTANA.
Laws of, not to be submitted to Congress, sec. 1850 ... 23
Penitentiary, sec. 1892 ... 30
Boundaries and establishment, sec. 1903 ... 40
Delegate must be a citizen of U. S., sec. 1906 ... 40
Judicial power in, sec. 1907 ... 40

MUNICIPAL Corporations.
Power of incurring indebtedness limited, sec. 4 ... 32

NON-RESIDENTS.
Taxation of land, etc., sec. 1851 ... 23

OATHS.
Official, sec. 1878 ... 27
Where administered, chap. 88 ... 48

OFFICERS.
Commission of, sec. 1841 ... 20
Township, district and county to be elected or appointed, sec. 1857 ... 24
Territorial, appointed by governor, sec. 1857 ... 24
Term of office of first appointees, sec. 1857 ... 24
Term of office of, appointed to fill vacancies, sec. 1858 ... 24

PAGE.

OFFICERS.
Qualifications of, sec. 1859 ... 24
Of legislative assembly, chap. 329 ... 51
Oath of, sec. 1878, p. 27, chap. 88 ... 48
No salary when absent, unless, sec. 1884 ... 28
None until enters upon duties of office, sec. 1941 ... 42
Securities for moneys entrusted to them, sec. 1951 ... 43
Salaries when to commence, chap 88 ... 48

PARDONS
Governor may grant, sec. 1841 ... 20

PENITENTIARY.
Under care of marshal, sec. 1892 ... 30
Attorney general to regulate, sec. 1893 ... 30
Funds to pay expenses, sec. 1894 ... 30
Territorial convicts imprisoned in, at Territorial cost, sec. 1895 ... 30
Amendment of act transferring control of to certain territories, sec. 1, 2 ... 45

PRACTICE in Courts.
Common law and chancery as prescribed by code, sec. 1 ... 44
Code practice confirmed, sec. 1 ... 44
Jury trial in law cases, sec. 1 ... 44

PRESIDENT OF UNITED STATES.
May receive assent of Indian tribes to include their country within territorial boundaries, sec. 1839 ... 20
Decision in respites, sec. 1841 ... 20
Officers appointed by, sec, 1877 ... 27

PRINTING.
Limitation on expense of, sec. 1878, p. 27, chap. 329 ... 52

PROBATE COURT.
Judicial power vested in, sec, 1907 ... 40
Jurisdiction of, sec. 1932 ... 42
Appeals from, to district court, sec. 1932 ... 42

RAILROADS.
Utah Northern, act concerning, chap 362 ... 52

REGISTER in Chancery.
Clerk of district court to be, sec. 1872 ... 27

RELIGIOUS corporations, sec. 1890 ... 29

REAL ESTATE.
Aliens may not acquire or hold in territories, chap. 340 ... 33
Same; exception, chap. 340 ... 34
Certain corporations prohibited from acquiring or holding, sec. 2 ... 34
What may be owned by railroad, canal and turnpike corporations, sec. 3 ... 34
Other corporations may own 5,000 acres, sec. 3 ... 34
Forfeiture of lands unlawfully held, sec. 4 ... 34

REPRESENTATION.
Apportionment of, sec. 1849, p. 23, chap 329 ... 51

RESPITE,
Governor may grant, sec. 1841 ... 20

RIGHTS.
Act concerning, secs. 1-5 ... 46
Of persons regardless of color, race or servitude sec. 1 ... 46
Civil and legal, to be protected, sec. 2 ... 46
Punishment for violating act concerning, sec. 2 ... 46

HeinOnline -- 1887 119 1887

PAGE.

RIGHTS.
Parties injured to elect mode of procedure, sec. 2 ... 46
U. S. district and circuit courts to have exclusive jurisdiction' sec. 3. 47
Officers especially required to institute proceedings, sec. 3 ... 47
Civil action in such case not to be defeated, sec. 3 ... 47
Penalty when officer wilfully fails, sec 3 ... 47
Persons otherwise qualified to serve as jurors, not to be disqualified by reason of race, color, etc., sec. 4 ... 47
Officer failing to summons or select as jurors such persons, to be punished, sec. 4 ... 47
Supreme court of U. S. to review all proceedings, sec. 5 ... 48

SALARIES.
Of officers, secs. 1879, 1880, 1881, 1882 ... 28
Quarterly payments, sec. 1882 ... 28
No salary when absent, unless, sec. 1884 ... 28
No salary until duties entered upon, sec. 1941 ... 42
Payment to commence, chap. 88 ... 48

SCHOOL LANDS.
Sections 16 and 36 reserved, sec. 1946. 42

SEAT OF GOVERNMENT.
How located, sec. 1885 ... 29
How changed, sec. 1945 ... 42

SECRETARY of the Territory.
Residence, sec. 1843 ... 21
Term of office, sec. 1843 ... 21
Acting governor, when, sec. 1843 ... 21
General duties of, sec. 1844 ... 21
Extra compensation prohibited, sec. 1875 ... 24
Appointment of, sec. 1877 ... 27
Official oath, sec. 1878 ... 27
Record official oaths, sec. 1878 ... 27
Public moneys disbursement of, sec. 1940 ... 42
No salary until, sec. 1941 ... 42
Fees of, from Territory, chap. 329 ... 52

SECRETARY of Treasury.
To estimate expenses of legislature, etc. sec. 1940 ... 42
Prescribe manner of giving security by officers, sec. 1951 ... 43

SUPREME COURT.
Constituted, how, sec. 1864 ... 26
Judges of, to hold one term annually at seat of government, sec. 1864 ... 26
Additional justice for, sec. 1 ... 55
Judge of, not to sit in appeals from his decisions, sec. 1 ... 55
Chancery and common law jurisdiction, sec. 1868 ... 26
Appellate, jurisdiction of, sec. 1869 ... 26
No jury trial, sec. 1869 ... 26
Power to appoint clerk, sec. 1870 ... 26
Judicial power vested in, sec. 1907 ... 40

SUPREME COURT of U. S.
Writs of error, of habeas corpus and appeals, sec. 1909, p. 41, sec. 2 ... 44
Appellate, jurisdiction of, sec. 2 ... 44
To review all proceedings under civil rights law, sec. 5 ... 48

TAXATION.
Of U. S. property prohibited, sec. 1851 ... 23
Of land of non-residents, sec. 1851 ... 23

PAGE.

TERRITORY.
Indian Territory recognized by treaty not included within the boundaries, but excepted therefrom, sec 1839 ... 20
Jurisdiction limited, sec. 1839 ... 20
Executive power of, sec. 1841 ... 20
Secretary of, sec. 1843 ... 21
Not to subscribe to the capital stock of any corporation, sec. 2 ... 32
Limit to power of incurring indebtedness, sec. 3 ... 32

TIMBER
No moneys appropriated to be used in collecting charge for wood or timber cut, chap. 76 ... 50
Exported liable to seizure, chap. 76 ... 50
Bona fide residents may cut timber from mineral lands, chap. 150 ... 50
Act not to apply to railroad corporations, chap. 150 ... 50
Register and receiver, duties of, sec. 2 ... 50
Penalty for violating act relative to sec. 3 ... 51

UNITED STATES.
Officers of, not to be members of legislative assembly, sec. 1854 ... 23
Not to be charged with expenses of county courts, sec. 1874 ... 27

UNITED STATES ATTORNEY.
Appointed and term of office, secs. 1875-1877 ... 27
Salary of, secs. 1880-1882 ... 28
Fees and costs allowed, how paid, sec. 1883 ... 23

UNITED STATES MARSHAL.
Appointed, term of office and duties secs. 1876, 1877 ... 27
Salary of, sec. 1881 ... 28
Salary, when paid, sec. 1882 ... 28
Fees and costs allowed, how paid, sec. 1883 ... 28
Penitentiary in charge of, sec. 1892 ... 30
Compensation therefor, sec. 1893 ... 30

VACANCIES in Office.
How filled, sec. 1878 ... 24

VETO POWER of Governor, sec. 1842 21

VOTERS.
Qualifications of, secs. 1859, 1860 ... 24

WATER.
On desert land, chap. 107 ... 48
Surplus water free for other purposes, sec. 1 ... 48

WITNESSES.
Persons charged with crime may testify, chap. 37 ... 49
Husband or wife may testify in prosecution for polygamy, sec. 1 ... 35
May be attached and recognizance of, sec. 2 ... 35

WRITS OF ERROR AND APPEALS, sec. 1869 ... 26
Allowed to supreme court of U. S., sec. 1909 ... 41
To supreme court of territory, sec. 1910 ... 41
In jury trials and other causes, sec. 2 ... 45
In what cases may be taken secs. 1, 3 ... 54

WRITS OF HABEAS CORPUS, sec. 1909 ... 41

HeinOnline -- 1887 120 1887

INDEX

TO THE LAWS OF THE FIFTEENTH (EXTRAORDINARY) SESSION OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF MONTANA.

PAGE.

ADMINISTRATORS.
Fees, when allowed no compensation by, sec. 1 ... 59

ATTORNEY GENERAL.
Appointment and bond, sec. 1 ... 60
Salary and residence, sec. 2 ... 60
Expenses, sec. 3 ... 61
Reports and documents, secs. 4, 5 ... 61
Duties, secs. 6-9 ... 61

ADULTERATED LIQUORS.
Penalty for selling, sec. 8 ... 75

ASSESSMENT OF PROPERTY.
See Taxes.

ASSESSMENT LISTS.
The form of, sec. 16 ... 89

ARBORICULTURE.
Arbor Day, sec. 1 ... 103
Exemption from taxes for planting fruit trees, sec. 3 ... 103
Same for forest trees, sec. 6 ... 103

AMENDMENTS to Compiled Statutes.
Bounty for killing wild animals ... 58
Sec. 172, Fifth Division ... 58
Sec. 253, Second Division ... 59
Formation of municipal corporations, approved March 10, 1887 ... 62
Secs. 535 and 594, Chapter 22, Fifth Division ... 67
Storage of gunpowder, approved March 1, 1883 ... 68
Liens of mechanics and others, approved March 9, 1887 ... 71
Licenses, approved March 10, 1887 ... 72
Suppress and prevent disease among sheep, approved March 10, 1887 ... 79
Stenographers for district courts, approved March 10, 1887 ... 82
Taxes, Chapter LIII Revised Statutes, sec. 1070 to 1076, inclusive, and sec. 1078, Fifth Division, approved March 12, 1885, and act approved March 10, 1887 ... 102
Arboriculture, approved February 20, 1887 ... 103

BOUNTIES.
For killing wild animals, sec. 1 ... 58
Repealing all, for same, sec. 1 ... 58

BONDS.
Municipal, secs. 3-7 ... 69

COUNTY ATTORNEY.
Not to try cases in the supreme court, sec. 1 ... 58

COUNTY ASSESSOR.
Term of office, sec. 1 ... 58

PAGE.

CASCADE COUNTY.
Boundaries, sec. 1 ... 105
County seat, sec. 1 ... 106
Indebtedness, sec. 2 ... 106
School moneys, sec. 3 ... 106
Election of commissioners, sec. 4 ... 107
Salaries, sec. 6 ... 107
Township and road districts, sec. 7 ... 108
Records transcribed, sec. 8 ... 108
Delinquent taxes, sec. 9 ... 108
Township officers, sec. 10 ... 108
Indebtedness and court house, sec. 11 ... 109

DISTRICT COURTS.
Exceptions and instructions of, trial practice in, sec. 1 ... 67
Motion for new trials, secs. 1, 2 ... 77
Stenographers for, secs. 4, 5 ... 82

DISTURBANCE of the Peace.
Defining same, sec. 1 ... 77

FEES.
Of county clerks and recorders, sec. 1 ... 67

GUNPOWDER and Explosives.
Storage of, distance from city limits, sec. 2 ... 68
Kind of storage building, sec. 3 ... 68

INDEBTEDNESS.
What cities and towns may incur, sec. 1 ... 69
Notice and election, sec. 2 ... 69
Sale of Bonds, sec. 3 ... 69
Style of Bonds, sec. 4 ... 69
Tax for sinking fund, sec. 5 ... 69
Interest payable, sec. 5 ... 69
Redemption of bonds, sec. 6 ... 69
Commissioners of sinking fund, sec. 7 ... 69

LIENS.
Of mechanics and others, secs. 1-5 ... 71
Account to be filed, sec. 1 ... 71
Extend to land, sec. 2 ... 71
Subsequent, on same property, sec. 3 ... 71
Priority over mortgages, sec. 3 ... 72
Who are owners, sec. 5 ... 72

LICENSES.
Billiard and pool tables, sec. 1 ... 72
Theatres and amusements, sec. 1 ... 72
Pawnbrokers, sec. 1 ... 72
Intelligence offices, sec. 1 ... 72
Professional, sec. 1 ... 72
Livery stables and public carriages, sec. 2 ... 73
Merchants, sec. 3 ... 73
Express and passengers, sec. 4 ... 73
Hotels and lodging houses, sec. 5 ... 73
Liquor dealers, retail, sec. 6 ... 74
To be paid in advance, sec. 7 ... 74
Penalty for selling liquors to minors, sec. 7 ... 74
Liquors, manufacturers of spirituous, sec. 9 ... 75

HeinOnline -- 1887 121 1887